



भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY
साप्ताहिक
WEEKLY

सं. 37] नई दिल्ली, सितम्बर 8—सितम्बर 14, 2013, शनिवार/भाद्र 17—भाद्र 23, 1935
No. 37] NEW DELHI, SEPTEMBER 8—SEPTEMBER 14, 2013, SATURDAY/BHADRA 17—BHADRA 23, 1935

भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत एवं पेंशन मंत्रालय
(कार्मिक एवं प्रशिक्षण विभाग)
नई दिल्ली, 2 सितम्बर, 2013

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES
AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 2nd September, 2013

का.आ. 1932.—केन्द्रीय सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम 1946 (1946 का अधिनियम 25) की धारा 6 सहपठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उत्तर प्रदेश सरकार शासन के गृह (पुलिस) अनुभाग-12 अंतर्गत अधिसूचना संख्या 1680/6-पीयू-12-13-6(24)डी/13, लखनऊ, दिनांक 25 जुलाई, 2013 द्वारा प्रदत्त सहमति से तीर्थंकर महावीर यूनियर्सिटी, पाकबड़ा, मुरादाबाद में Ms. नीरज भडाना की हत्या के संबंध में थाना पाकबड़ा, जिला मुरादाबाद, उत्तर प्रदेश में भारतीय दंड संहिता 1860 की धारा 302 के अंतर्गत अपराध संख्या 206/2013 तथा उपरोक्त अपराध से जुड़े या सम्बन्धित प्रयास, उकसाना और षडयंत्र करने और इस चलन में अन्य किए गए या उन्हीं तथ्यों से उद्भूत किसी अपराध एवं अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार सम्पूर्ण उत्तर प्रदेश राज्य पर करती है।

S.O. 1932.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Uttar Pradesh, Grih (Police) Anubhag-12, Lucknow *vide* Notification No. 1680(2)/6-Pu-12-13-6(24)D/13 dated 25th July, 2013, hereby extends the powers and Jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Uttar Pradesh for investigation of case Crime No. 206/2013 under section 302 of the Indian Penal Code, 1860 (Act No. 45 of 1860) registered at Police Station Pak Badha District Moradabad, Uttar Pradesh relating to murder of Miss Neeraj Bhadhana at Tirthankar Mahaveer University Pak Badha, Moradabad and attempt, abetment and conspiracy in relation to or in connection with the above mentioned offence and any other offence or offences committed in the course of the same transaction or arising out of the same facts.

[सं. 228/55/2013-एवीडी-II]
राजीव जैन, अवर सचिव

[No. 228/55/2013-AVD-II]
RAJIV JAIN, Under Secy.

नई दिल्ली, 5 सितम्बर, 2013

का०आ० 1933.—केन्द्रीय सरकार, एतद्द्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम संख्या 25) की धारा 6 के साथ पठित धारा 5 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मध्य प्रदेश राज्य सरकार, गृह विभाग, मंत्रालय, वल्लभ भवन, भोपाल की दिनांक 22 जून, 2013 की अधिसूचना संख्या एफ-12-31/2013/बी-1 (दो) द्वारा प्राप्त सहमति से स्व० श्री अरुण तिवारी द्वारा दिनांक 02.10.2012 को आत्महत्या किये जाने से संबंधित पुलिस थाना बाग सेवनिया, जिला भोपाल में पंजीकृत भारतीय दंड संहिता, 1860 (1860 का अधिनियम संख्या 45) की धारा 302, 120बी, 34 के अंतर्गत अपराध क्रमांक 493/2011 का तथा उपर्युक्त अपराधों के संबंध में या उससे संबद्ध प्रयास, दुष्प्रेरण तथा षडयंत्र तथा उसी संव्यवहार के अनुक्रम में किये गये या उन्हीं तथ्यों से उद्भूत अन्य अपराध या अपराधों का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार सम्पूर्ण मध्य प्रदेश राज्य पर करती है।

[सं. 228/48/2013-एवीडी-II]

राजीव जैन, अवर सचिव

New Delhi, the 5th September, 2013

S.O. 1933.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Madhya Pradesh, Home Department, Mantralaya, Bhopal *vide* Notification No. F. 12-31/2013/B-1(Two) dated 22nd June, 2013, hereby extends the powers and Jurisdiction of the members of the Delhi Special Police Establishment to the whole of the State of Madhya Pradesh for investigation of case Crime No. 493/2011 under section 34, 120-B and 306 of the Indian Penal Code, 1860 (Act No. 45 of 1860) registered at Police Station Bagh Sewaniya, District Bhopal relating to suicide committed by late Arun Tiwari on 02-10-2011 and attempts, abetments and conspiracies in relation to or in connection with the above mentioned offences and any other offence or offences committed in the course of the same transaction or arising out of the same facts.

[No. 228/48/2013-AVD-II]

RAJIV JAIN, Under Secy.

कार्यालय मुख्य आयकर आयुक्त

जयपुर, 6 सितम्बर, 2013

सं० 08/2013-14

का०आ० 1934.—आयकर नियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 (1961 का 43वां) की धारा 10 के खण्ड (23 सी) की उप-धारा (vi) के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए मुख्य आयकर आयुक्त, जयपुर एतद्द्वारा निर्धारण वर्ष

2012-13 एवं आगे के लिये कथित धारा के उद्देश्य से “स्वामी श्यामलानन्द शिक्षा समिति, जयपुर (स्थाई खाता संख्या-AAHTJ8654F) को स्वीकृति देते हैं।

2. बशर्ते कि समिति आयकर नियम, 1962 के नियम 2 सी ए के साथ पठनीय आयकर अधिनियम, 1961 की धारा 10 के उप-खंड (23सी) की उप-धारा (vi) के प्रावधानों के अनुरूप कार्य करें।

[क्रमांक: मुआआ/अआआ/(मु)/जय/10(23सी)

(vi) /13-14/3306]

अतुलेश जिंदल, मुख्य आयकर आयुक्त

Office of the Chief Commissioner of Income Tax

Jaipur, the 6th September, 2013

No. 8/2013-14

S.O. 1934.—In exercise of the powers conferred by sub-clause (vi) of clause (23C) of Section 10 of the Income-tax Act, 1961 (43 of 1961) read with rule 2CA of the Income-tax Rules, 1962 the Chief Commissioner of Income-tax, Jaipur hereby approves "Swami Shayamlanand Shiksha Samiti" for the purpose of said section for the A.Y. 2012-13 onwards, provided that the society conforms to and complies with the provisions of sub-clause (vi) of clause (23C) of section 10 of the Income-tax Act, 1961 read with rule 2CA of the Income-tax Rules, 1962.

[No. CCIT/JPR/ITO(Tech.)/10(23C)(vi)/2013-14/3306]

ATULESH JINDAL, Chief Commissioner of Income-tax

वित्त मंत्रालय

(वित्तीय सेवाएं विभाग)

नई दिल्ली, 5 सितम्बर, 2013

का०आ० 1935.—केन्द्रीय सरकार, वित्तीय आस्तियों का प्रतिभूतिकरण एवं पुनर्गठन और प्रतिभूति हित का प्रवर्तन अधिनियम, 2002 (2002 का 54) की धारा 2 की उप-धारा (1) के खण्ड (ड) के उप-खण्ड (iv) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एतद्द्वारा, राजपत्र (असाधारण) अधिसूचना संख्या का०आ० 1282(अ) दिनांक 10 नवम्बर, 2003 में निम्नलिखित संशोधन करती है:—

उक्त अधिसूचना में क्रम संख्या 18 और इससे संबंधित प्रविष्टियों के लिए निम्नलिखित को प्रतिस्थापित किया जाएगा, नामतः :—

“एल एंड टी हाउसिंग फाइनेंस लिमिटेड”

[फा० सं० 22/08/2012—डीआरटी (रिकवरी)]

मिहिर कुमार, निदेशक (रिकवरी)

पाद टिप्पणी:—10 नवम्बर, 2003 को भारत के राजपत्र (असाधारण) भाग II, खंड 3, उप-खंड (ii) में का०आ० 1282 (अ) के जरिए प्रकाशित मुख्य अधिसूचना; जिसमें बाद में 16 जून, 2012 के भारत के राजपत्र, भाग II, खंड 3, उप-खंड (ii) में का०आ० 2359 के जरिए संशोधन किया गया।

MINISTRY OF FINANCE

(Department of Financial Services)

New Delhi, the 5th September, 2013

S.O. 1935.—In exercise of the powers conferred by sub-clause (iv) of clause (m) of sub-section (1) of section 2 of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002), the Central Government hereby amends the Notification No. S.O. 1282 (E) dated 10th November, 2003 as under:

In the said notification, for serial number 18 and the entries relating thereto, the following shall be substituted, namely:-

"L&T Housing Finance Limited."

[F.No. 22/08/2012-DRT (Recovery)]
MIHIR KUMAR, Director (Recovery)

Footnote:—Principal Notification published *vide* S.O. 1282(E) dated 10th November, 2003 in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii); subsequently amended *vide* S.O. 2359 dated 16th June, 2012 in the Gazette of India, Part II, Section 3, Sub-section (ii).

युवा कार्यक्रम एवं खेल मंत्रालय

नई दिल्ली, 5 सितम्बर, 2013

का.आ. 1936.—केन्द्रीय सरकार एतद्वारा राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम 1976 के नियम 10 के उप-नियम (4) के अनुसरण में युवा कार्यक्रम और खेल मंत्रालय के स्वायत्तशासी कार्यालय लक्ष्मीबाई राष्ट्रीय शारीरिक शिक्षा संस्थान, ग्वालियर जिसके 80% से अधिक कर्मचारीवृंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[सं. ई-11011/2/2008-हिं.ए.]
थंगलेमलियन, उप सचिव

MINISTRY OF YOUTH AFFAIRS AND SPORTS

New Delhi, the 5th September, 2013

S.O. 1936.—In pursuance of sub rule (4) of Rule 10 of Official Language (use for official purpose of the Union) Rule, 1976, the Central Government hereby notifies Laksmibai National Institute of Physical Education, Gwalior an autonomous office of Ministry of Youth Affairs & Sports, whereof more than 80% staff have acquired working knowledge of Hindi.

[No.E-11011/2/2008-H.U.]
THENGLEMLIAN, Dy. Secy.

नई दिल्ली, 5 सितम्बर, 2013

का.आ. 1937.—केन्द्रीय सरकार एतद्वारा राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम (4) के अनुसरण में युवा कार्यक्रम और खेल मंत्रालय के स्वायत्तशासी कार्यालय भारतीय खेल प्राधिकरण प्रशिक्षण केंद्र, पुडुचेरी जिसके 80% से अधिक कर्मचारीवृंद ने हिंदी का कार्यसाधक ज्ञान प्राप्त कर लिया है, को अधिसूचित करती है।

[सं. 11011/2/2008-हिं.ए.]
थंगलेमलियन, उप सचिव

New Delhi, 5th September, 2013

S.O. 1937.—In pursuance of sub rule (4) of Rule 10 of Official Language (use of official purpose of the Union) Rule, 1976, the Central Government hereby notifies Sports Authority of India Training Centre, Puduchari, an autonomous office of Ministry of Youth Affairs & Sports, whereof more than 80% staff have acquired working knowledge of Hindi.

[No. E-11011/2/2008-H.U.]
THANGLEMLIAN, Dy. Secy.

उपभोक्ता मामले, खाद्य और सार्वजनिक वितरण मंत्रालय

(उपभोक्ता मामले विभाग)

(भारतीय मानक ब्यूरो)

नई दिल्ली, 26 अगस्त, 2013

का.आ. 1938.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिन भारतीय मानकों का विवरण नीचे अनुसूची में दिया गया है वे स्थापित हो गये हैं:—

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या, वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1	आई एस 16099:2013 विद्युतीय प्रयोजनार्थ सिंथेटिक कार्बनिक इस्टर—उपस्कर में ट्रांसफार्मर इस्टर के अनुपक्षण संबंधी मार्गदर्शिका	—	26.08.2013

(1)	(2)	(3)	(4)
2	आई एस 16085:2013 मिनरल तेल-भरित विद्युतीय उपस्कर— विद्युतीय उपस्कर पर फैक्टरी परीक्षणों के लिए घुलित गैस विश्लेषण (डी०जी०ए०) के अनुप्रयोग	—	26.08.2013
3	आई एस 16086:2013 विद्युतरोधी द्रव—चालकता और धारिता के मापन द्वारा पराविद्युत विसरण कारक को ज्ञात करना—परीक्षण विधि	—	26.08.2013
4	आई एस 16084:2013 मिनरल विद्युतरोधी तेल—बहुत कम तापमान पर काइनेमैटिक श्यानता ज्ञात करना	—	26.08.2013

इन भारतीय मानकों की एक प्रति भारतीय मानक ब्यूरो, मानक भवन, 9, बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पुणे तथा तिरुवनन्तपुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ ईटी 03/टी-37, टी-39, टी-41, टी-42]

आर० सी० मैथ्यू वैज्ञानिक 'एफ' एवं प्रमुख (विद्युत तकनीकी)

MINISTRY OF CONSUMER AFFAIRS, FOOD AND PUBLIC DISTRIBUTION

(Department of Consumer Affairs)

(BUREAU OF INDIAN STANDARDS)

New Delhi, the 26th August, 2013

S.O. 1938.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standard hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each:

SCHEDULE

Sl. No.	No. and Year of the Indian Standards	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Established
(1)	(2)	(3)	(4)
1	IS 16099:2013 Synthetic organic esters for electrical purposes — Guide for maintenance of transformer esters in equipment	—	26.08.2013
2	IS 16085:2013 Mineral oil-filled electrical equipment— Application of dissolved gas analysis (DGA) to factory tests on electrical in equipment	—	26.08.2013
3.	IS 16086:2013 Insulating liquids — Determination of the dielectric dissipation factor by measurement of the conductance and capacitance — Test method	—	26.08.2013
4	IS 16084:2013 Mineral insulating oils — Determination of kinematic viscosity at very low temperatures	—	26.08.2013

Copy of these Standards are available for the sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110 002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. ET 03/T-37, T-39, T-41, T-42]

R.C. MATHEW, Scientist 'F' & Head (Electro-technical)

नई दिल्ली, 5 सितम्बर, 2013

का०आ० 1939.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उपनियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि नीचे अनुसूची में दिए गए हैं वे स्थापित हो गए हैं।

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक (कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
(1)	(2)	(3)	(4)
1	आई एस 7784(भाग 1): 2013 आर पार जल निकाय कार्यों के डिजाइन — रीति संहिता भाग 1 सामान्य लक्षण (दूसरा पुनरीक्षण)	आई एस 7784 (भाग 1) 1993	31.07.2013

इस भारतीय मानक की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली-110002, क्षेत्रीय कार्यालयों : नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों : अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, हैदराबाद, जयपुर, कानपुर, नागपुर, पटना, पूणे तथा तिरुवनन्त पुरम में बिक्री हेतु उपलब्ध हैं। भारतीय मानकों को <http://www.standardsbis.in> पर इंटरनेट द्वारा खरीदा जा सकता है।

[संदर्भ डब्ल्यू आर डी 13/टी-20]

जे० सी० अरोड़ा, वैज्ञानिक 'एफ' एवं प्रमुख (जल संसाधन विभाग)

New Delhi, the 5th September, 2013

S.O. 1939.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian Standards hereby notifies that the Indian Standards, particulars of which are given in the Schedule hereto annexed have been established on the date indicated against each:

Sl. No.	Title and Year of the Indian Standards Established	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Establishment
1	2	3	4
1	IS 7784 (Part 1):2013 Design of cross drainage works—Code of practice: Part 1 General features (<i>second revision</i>)	IS 7784 (Part 1): 1993	31st July 2013

Copy of this Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan, 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneswar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram Indian Standards can be purchased from BIS sales portal <http://www.standardsbis.in>.

[Ref. WRD 13/T-20]

J. C. ARORA, Scientist 'F' & Head (Deptt. of Water Resources)

नई दिल्ली, 10 सितम्बर, 2013

का०आ० 1940.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 4 के उपविनियम 5 के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिनके विवरण नीचे अनुसूची में दिए गए हैं, को लाइसेंस प्रदान किए गए हैं:

अनुसूची

क्रम सं०	लाईसेंस नं०	स्वीकृत करने की तिथि वर्ष/माह	लाईसेंसधारी का नाम एवं पता	भारतीय मानक का शीर्षक	भारतीय मानक सं०	भाग	अनु०	वर्ष
1	5675282	03/04/2013	मेसर्स मॉ चंडी ज्वेलर्स बेटनोटी बस स्टैंड के समीप, पोस्ट बेटनोटी, जिला-मयूरभंज, ओडिशा-757025	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन—विशिष्ट	1417			1999
2	5675585	09/04/2013	मेसर्स सुधाकर पी वी सी प्रोडक्ट्स प्रा० लि० प्लॉट नं० 3081-2306, 2849, 50,52 57, 58, 528/231, पीतातली (V), जिला-गंजाम, ओडिशा	पानी की आपूर्ति हेतु उच्च घनत्व पॉलीइथाइलीन पाइप	4984			1995
3	5676183	09/04/2013	मेसर्स कणक ज्वेलरी वार्ड नं० 09, मेन रोड, बरबिल, जिला-कियोझार, ओडिशा-758035	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन — विशिष्ट	1417			1999
4	5676284	09/04/2013	मेसर्स नवरंग ज्वेलर्स धर्मशाला लेन, गैती रोड, जिला-संबलपुर, ओडिशा-768001	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन — विशिष्ट	1417			1999
5	5676385	09/04/2013	मेसर्स ईश्वर ज्वेलरी मोतीगंज बाजार, बालेश्वर, ओडिशा-756003	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन — विशिष्ट	1417			1999
6	5676486	09/04/2013	मेसर्स राधाकृष्णा ज्वेलरी वर्क्स पोस्ट-पीएस-बैसिंगा, जिला मयूरभंज, ओडिशा	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन विशिष्ट	1417			1999
7	5676991	10/04/2013	मेसर्स आधुनिक मेटालिक्स लि० ग्राम-चाद्रीहरिहरपुर, पोस्ट-कुआरमुंडा, राउरकेला जिला-सुंदरगढ़, ओडिशा-770039	कंक्रीट प्रबलन के लिए उच्च शक्ति विरूपित इस्पात सरिए एवं तार — विशिष्ट	1786			2008
8	5676688	11/04/2013	मेसर्स दुर्गा ज्वेलरी बनियापटी, बालीशाही के समीप, जिला-पुरी, ओडिशा	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन — विशिष्ट	1417			1999
9	5676789	11/04/2013	मेसर्स संतोष ज्वेलरी डोलामुंडई, होल्डिंग नं० 634, पोस्ट-बक्सीबाजार, पीएस- पुरीघाटपुरीघाट, जिला-कटक, ओडिशा-753001	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन- विशिष्ट	1417			1999
10	5677690	12/04/2013	मेसर्स विमाक प्लास्टिक्स 20, गणेश्वरपुर इंडस्ट्रियल एस्टेट, जानुगंज, जिला-बालेश्वर, ओडिशा-756019	पेयजल आपूर्ति के लिए अप्लास्टिक पीवीसी पाइप — विशिष्ट	4985			2000
11	5680073	23/04/2013	मेसर्स भूषण पावर एण्ड स्टील लि० ग्राम-थेलकोलोई, पोस्ट-लापंगा, तहसील-रेंगाली, जिला-संबलपुर, ओडिशा-768232	यांत्रिक और सामान्य इंजीनियरिंग प्रयोजनों के लिए इस्पात के पाईप — विशिष्ट	3601			2006

क्रम सं०	लाईसेंस नं०	स्वीकृत करने की तिथि वर्ष/माह	लाईसेंसधारी का नाम एवं पता	भारतीय मानक का शीर्षक	भारतीय मानक सं०	भाग	अनु०	वर्ष
12	5679088	30/04/2013	मेसर्स श्री राधा रमण एलौइज लि० ग्राम-पोस्ट- झारबेडा, पी०एस०-कुतरा, राजगंगापुर, जिला-सुंदरगढ़, ओडिशा-770070	सामान्य संरचना इस्पात हेतु पुनर्वेल्लन के लिए कार्बन ढलवां इस्पात इंगट, बिलेट, ब्लूम एवं स्लैब- विशिष्ट	2830			2012
13	5679290	01/05/2013	मेसर्स हरचंडी ट्रिक्स नीराकारपुर, पोस्ट-नीराकारपुर, जंकिरा, जिला-खुर्दा, ओडिशा-752019	पैकेजबंद पेय जल (पैकेज बंद प्राकृतिक मिनिरल जल के अलावा) - विशिष्ट	14543			2004
14	5679391	02/05/2013	मेसर्स रश्मि ट्रिक्स प्रा० लि० 69, भगवानपुर इंडस्ट्रियल एस्टेट, भुवनेश्वर, जिला-खुर्दा, ओडिशा-751019	पैकेजबंद पेय जल (पैकेजबंद प्राकृतिक मिनिरल जल के अलावा) - विशिष्ट	14543			2004
15	5680477	09/05/2013	मेसर्स मनोज एक्वा ट्रिक्स राजनगुंडा, जिला-कोरापुट, ओडिशा-764036	पैकेजबंद पेय जल (पैकेजबंद प्राकृतिक मिनिरल जल के अलावा) - विशिष्ट	14543			2004
16	5680679	09/05/2013	मेसर्स सरस्वती अलंकार, जगन्नाथपुर, पोस्ट-बसंतिया, पी०एस०-पंदीपडा, जिला-कियोझार, ओडिशा	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण-शिल्पकारी शुद्धता एवं मुहरांकन - विशिष्ट	1417			1999
17	5681479	17/05/2013	मेसर्स कनक मंदिर ज्वेलर्स मेन रोड, पी०एस०-पी०एस० रोड, राउरकेला, जिला-सुंदरगढ़, ओडिशा-769001	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्ट	1417			1999
18	5681580	17/05/2013	मेसर्स अलंकार ज्वेलर्स होल्डिंग नं० 35, वार्ड नं० 5, नीमचौरी, चांदीनि चौक, कटक, ओडिशा-753002	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्ट	1417			1999
19	5681681	17/05/2013	मेसर्स सेनापती ज्वेलर्स मेन रोड, रहमा, जिला-जगतसिंहपुर, ओडिशा-754140	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्ट	1417			1999
20	5681883	17/05/2013	मेसर्स एपारी सदाशिव प्रा० लि० प्लॉट नं० 864, खाता सं० 181, यूनिट-10, सिटी नं० 05, भास्करगंज, जिला-बालेश्वर, ओडिशा-756001	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्ट	1417			1999
21	5681984	17/05/2013	मेसर्स डी०पी० एण्ड संस ज्वेलर्स होल्डिंग नं० 44 एवं 45, वार्ड नं० 5, नीमचौरी, जिला-कटक, ओडिशा-753002	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्ट	1417			1999
22	5682077	17/05/2013	मेसर्स बिजीप्रुष्टि अलंकार प्लॉट नं० 291/675, पोस्ट-, खलीशाही, पी०एस०-खंदापडा, जिला-नयागढ़,	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण-शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्ट	1417			1999

क्रम सं०	लाईसेंस नं०	स्वीकृत करने की तिथि वर्ष/माह	लाईसेंसधारी का नाम एवं पता	भारतीय मानक का शीर्षक	भारतीय मानक सं०	भाग	अनु०	वर्ष
			ओडिशा					
23	5682784	21/05/2013	मेसर्स सत्यम कास्टिंग प्रालि० प्लॉट नं० ए/2, चौधर इंडस्ट्रियल स्टेट, गोपालपुर, पोस्ट-चासपडा, जिला-कटक, ओडिशा-754027	संरचना इस्पात (साधारण गुणता) के पुनर्वेल्लन हेतु कार्बन ढलवां इस्पात इंगट, बिलेट, ब्लूम एवं स्लैब-विशिष्ट	2831			2012
24	5683887	23/05/2013	मेसर्स पार्वती अलंकार ज्वेलर्स प्लॉट नं० 200/791, रंगोली चौक, फर्टिलाइजर टाउनशिप, पी०एस०-तंगारपल्ली, राउरकेला, जिला-सुंदरगढ़, ओडिशा	स्वर्ण एवं स्वर्ण मिश्रधातुएं, आभूषण/शिल्पकारी शुद्धता एवं मुहरांकन-विशिष्ट	1417			1999
25	5685689	24/05/2013	मेसर्स भूषण पाँवर एण्ड स्टील लि० ग्राम-थेलकोलोई, पोस्ट-लापंगा, तहसील-रेंगाली, जिला-संबलपुर, ओडिशा-768232	खोखले इस्पात के खंड संरचनात्मक प्रयोग के लिये-विशिष्ट	4923			1997
26	5684081	27/05/2013	मेसर्स श्री जगन्नाथ फूड एण्ड बेवरेज्स बोलगढ़, जिला-खुर्दा, ओडिशा-752066	पैकेजबंद पेय जल (पैकेजबंद प्राकृतिक मिनिरल जल के अलावा) -विशिष्ट	14543			2004

[सं. केन्द्रीय प्रमाणन विभाग 13 : 11]
एस. चौधुरी, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 10th September, 2013

S.O. 1940.—In pursuance of sub-regulation (5) of regulation 4 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby notifies the grant of licences particulars of which are given below in the following schedule:

SCHEDULE

Sl.No.	Licence No.	Grant Date	Name and address of the party	Title of the Standard	IS No.	Part.	Sec.	Year
01	5675282	03/04/2013	M/S MAA CHANDI JEWELLERS AT NEAR BETNOTI BUSSTAND PO/PS BETNOTI DISTRICT-MAYURBHANJ, ODISHA-757025	Gold and hold alloys, jewellery/artefacts-fineness and marking-	1417			1999
02	5675585	09/04/2013	M/S SUDHAKAR PVC Prod. Pvt. Ltd. PLOT NO. 3081-3106, 2849, 50,52,57,58,528/231, PITATALI (V), DISTRICT-GANJAM, ODISHA	High density Polyethylene pipes for potable water supplies	4984			1995
03	5676183	09/04/2013	M/S KANAK JEWELLERY WARD NO. 09, MAIN ROAD, BARBIL, DISTRICT-KEONJHAR, ODISHA-758035	Gold and gold alloys, jewellery/artefacts-fineness and marking-	1417			1999
04	5676284	09/04/2013	M/S NAVRANG JEWELLERS DHARMSHALA LANE, GAIRY ROAD, DISTRICT-SAMBALPUR, ODISHA-768001	Gold and gold alloys, jewellery/artefacte fineness and marking-	1417			1999
05	5676385	09/04/2013	M/S ISWAR JEWELLERY MOTIGANJ BAZAR, BALASORE, ODISHA-756003	Gold and gold alloys, jewellery/artefacts-fineness and marking-	1417			1999

Sl. No.	Licence No.	Grant Date	Name and address of the party	Title of the Standard	IS No.	Part	Sec.	Year
06	5676486	09/04/2013	M/S RADHAKRUSHNA JEWELLERY WORKS AT/PO/PS BAISINGA, DISTRICT-MAYURBHANJ, ODISHA	Gold and gold alloys. jewellery/artefacts-fineness and marking-	1417			1999
07	5676991	10/04/2013	M/S ADHUNIK METALIKS LIMITED AT-CHADRIHA-RIHARPUR, PO-KUARMUNDA, ROURKELA, DISTRICT-SUNDARGARH, ODISHA	High strength deformed steel bars and wires for concrete reinforcement	1786			2008
08	5676688	11/04/2013	M/S DURGA JEWELLERY AT BANIAPATI, NEAR BALISAHI DISTRICT-PURI ODISHA	Gold and gold alloys, jewellery/artefacts-fineness and marking-	1417			1999
09	5676789	11/04/2013	M/S SANTOSH JEWELLERY AT DOLAMUNDAI, HOLDING NO. 634, PO. BUXIBAZAR, PS. PURIGHAT, DISTRICT-CUTTACK, ODISHA-753001	Gold and gold alloys, jewellery/artefacts-fineness and marking	1417			1999
10	5677690	12/04/2013	M/S WEMAK PLASTIX 20, GANESWARPUR INDUSTRIAL ESTATE, JANUGANJ DISTRICT-BALASORE, ODISHA-756019	Unplasticized pvc pipes for potable water supplies-	4985			2000
11	5680073	23/04/2013	M/S BHUSHAN POWER AND STEEL Ltd. VILL-THELKOLOI, TEH-RENGALI PO-LAPANGA DISTRICT-SAMBALPUR, ODISHA-768232	Steel tubes for mechanical and general engineering purposes	3601			2006
12	5679088	30/04/2013	M/S SHRI RADHA RAMAN ALLOYS LTD VILL-JHARBEDA, PO-JHARBEDA, PS-KUTRA, RAJGANGPUR DISTRICT-SUNDARGARH, ODISHA-770070	Carbon steel cast billet ingots, billets, blooms and slabs for re-rolling into steel for general structural purposes	2830			2012
13	5679290	01/05/2013	M/S HARCHANDI DRINKS AT/PO:NIRAKARPUR, JANKIA, DISTRICT-KHURDA, ODISHA-752019	Packaged drinking water (other than packaged natural mineral water)-	14543			2004
14	5679391	02/05/2013	M/S RASMI DRINKS PVT. LTD. 69, BHAGABANPUR INDUSTRIAL ESTATE, BHUBANESWAR, DISTRICT-KHURDA, ODISHA-751019	Packaged drinking water (other than packaged natural mineral water)-	14543			2004
15	5680477	09/05/2013	M/S MANOJ AQUA DRINKS RAJNAGUDA, KORAPUT ODISHA-764036	Packaged drinking water (other than packaged natural mineral water)-	14543			2004
16	5680679	09/05/2013	M/S SARASWATI ALANKAR AT. JAGANNATHPUR PO. BASANTIA, PS: NANDIPADA, DISTRICT-KEONJHAR, ODISHA	Gold and gold alloys jewellery/artefacts-fineness and marking-	1417			1999
17	5681479	17/05/2013	M/S KANAK MANDIR JEWELLERS MAIN ROAD, PS: P.S. ROAD, ROURKELA, DISTRICT-SUNDARGARH, ODISHA-769001	Gold and gold allowys jewellery/artefacts-fineness and marking-	1417			1919
18	5681580	17/05/2013	M/S ALANKAR JEWELLERS HOLDING NO. 35, WARD NO. 5 NIMCHOURI, CHANDINI CHOWK DISTRICT-CUTTACK, ODISHA-753002	Gold and gold alloys, jewellery/artefacts-fineness and marking	1417			1999

Sl. No.	Licence No.	Grant Date	Name and address of the party	Title of the Standard	IS No.	Part	Sec.	Year
19	5681681	17/05/2013	M/S SENAPATI JEWELLERS MAIN ROAD, RAHMA DISTRICT-JAGAT SINGH PUR, ODISHA-754140	Gold and gold alloys, jewellery/artefacts- fineness and marking	1417			1999
20	5681880	17/05/2013	M/S EPARI SADASHIV PVT. LTD. PLOT NO. 864, KHATA NO. 181, UNIT NO. 10 CITY NO. 05, BHASKAR GANJ, DISTRICT-BALASORE, ODISHA-756001	Gold and gold alloys, jewellery/artefacts- fineness and marking-	1417			1999
21	5681984	17/05/2013	M/S D.P. & SONS JEWELLERS HOLDING NO. 44 & 45, WARD NO.5, NIMCHOURI, DISTRICT-CUTTACK, ODISHA-753002	Gold and gold alloys, jewellery/artefacts- fineness and marking-	1417			1999
22	5682077	17/05/2013	M/S BIJIPRUSTY ALANKAR PLOT NO. 291/675, AT/PO KHALISAH, I, PS: KHANDAPADA, DISTRICT-NAYAGARH, ODISHA	Gold and gold alloys, jewellery/artefacts- fineness and marking-	1417			1999
23	5682784	21/05/2013	M/S SATYAM CASTINGS PVT. LTD. PLOT NO. A/2, CHOUDHAR INDUSTRIAL ESTATE, AT-GOPALPUR, PO-CHASAPADA, DISTRICT-CUTTACK, ODISHA-754027	Carbon steel cast billet ignots, billets, blooms and slabs for re-rolling into low tensile structural steel-	2831			2012
24	5683887	23/05/2013	M/S PARBATI ALANKAR JEWELLERS PLOT NO. 200/791, RANGOLI CHOWK FERTILIZER TOWNSHIP, PS. TANGARPALLI, ROUREKELA, DISTRICT-SUNDARGARH, ODISHA	Gold and gold alloys, jewellery/artefacts- fineness and marking-	1417			1999
25	5685689	24/05/2013	M/S BHUSHAN POWER AND STEEL LTD. VILL-THELKOLAI, TEH-RENGALI PO-LAPANGA, DISTRICT-SAMBALPUR, ODISHA-768232	Hollow steel sections for structural use	4923			1997
26	5684081	27/05/2013	M/S SRI JAGANNATH FOOD & BEVERAGES, AT: BOLGARH DISTRICT-KHURDA, ODISHA-752066	Packaged drinking water (other than packaged natural Water)-	14543			2004

[No. CMD/13:11]

S. CHOWDHURY, Scientist 'F' & Head

नई दिल्ली, 10 सितम्बर, 2013

का०आ० 1941.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 4 के उपविनियम 5 के अनुसरण में भारतीय मानक ब्यूरो एतद् द्वारा अधिसूचित करता है कि जिनके विवरण नीचे अनुसूची में दिए गए हैं, को लाइसेंस रद्द किए गए हैं:

क्रम सं०	लाइसेंस नं०	लाइसेंसधारी का नाम एवं पता	लाइसेंस के अंतर्गत वस्तु/प्रक्रम सम्बद्ध भारतीय मानक का शीर्षक	रद्द/स्थगित करने की तिथि
01	5216654	मेसर्स ओसीएल इंडिया लि० राजगंगपुर, जिला-सुंदरगढ़, ओडिशा-770017	तेल के कुओं हेतु सीमेंट की विशिष्ट आईएस 8229:1986	30.04.2013

[सं० केन्द्रीय प्रमाणन विभाग/13:11]

एस० चौधरी, वैज्ञानिक 'एफ' एवं प्रमुख

New Delhi, the 10th September, 2013

S.O. 1941.—In pursuance of sub-regulation (6) of regulation 5 of the Bureau of Indian Standards (Certification) Regulations 1988, of the Bureau of Indian Standards, hereby notifies the licences particulars of which are given below have been cancelled/suspended with effect from the date indicated against each :

SCHEDULE

Sl. No.	Licences No. CM/L	Name & Address of the Licensee	Article/Process with relevant Indian Standards covered by the licence cancelled/suspension	Date of Cancellation
01	5216654	M/S OCL India Ltd. Rajgangpur District:Sundargarh, Odisha- 770017	Oil-Well Cement IS 8229:1986	30-04-2013

[No. CMD/13:11]

S. CHOWDHURY, Scientist 'F' & Head

नई दिल्ली, 10 सितम्बर, 2013

का.आ. 1942.—भारतीय मानक ब्यूरो नियम 1987 के नियम 7 के उप-नियम (1) के खंड (ख) के अनुसरण में भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि जिस भारतीय मानक का विवरण नीचे अनुसूची में दिया गया है वह स्थापित हो गया है:-

अनुसूची

क्रम संख्या	स्थापित भारतीय मानक(कों) की संख्या वर्ष और शीर्षक	नये भारतीय मानक द्वारा अतिक्रमित भारतीय मानक अथवा मानकों, यदि कोई हो, की संख्या और वर्ष	स्थापित तिथि
1	2	3	4
1	आई एस 12171:2013 रुई की गांठें – विशिष्टि (दूसरा पुनरीक्षण)	आई एस 12171:1999	अगस्त 2013

इस भारतीय मानक की प्रतियां भारतीय मानक ब्यूरो, मानक भवन, 9 बहादुर शाह जफर मार्ग, नई दिल्ली – 110002, क्षेत्रीय कार्यालयों नई दिल्ली, कोलकाता, चण्डीगढ़, चेन्नई, मुम्बई तथा शाखा कार्यालयों, अहमदाबाद, बंगलौर, भोपाल, भुवनेश्वर, कोयम्बतूर, गुवाहाटी, हैदराबाद, जयपुर, कानपुर, पटना, पुणे तथा तिरुवनन्तापुरम में बिक्री हेतु उपलब्ध हैं।

[संदर्भ टी एक्स डी/जी -25]

प्रभाकर राय, वैज्ञानिक 'ई' एवं प्रमुख (टी एक्स डी)

New Delhi, the 10th September, 2013

S.O. 1942.—In pursuance of clause (b) of sub-rule (1) of Rule 7 of the Bureau of Indian Standards Rules, 1987, the Bureau of Indian standards, hereby notifies that Indian Standard, particular of which is given in the Schedule hereto annexed has been issued:

SCHEDULE

Sl No.	No., Title and Year of the Indian Standards	No. and Year of the Indian Standards, if any, Superseded by the New Indian Standard	Date of Establishment
1	2	3	4
1	IS 12171:2013 Cotton Bales-Specification (Second Revision)	IS 12171:1999	August 2013

Copy of the above Indian Standard is available for sale with the Bureau of Indian Standards, Manak Bhavan 9, Bahadur Shah Zafar Marg, New Delhi-110002 and Regional Offices: New Delhi, Kolkata, Chandigarh, Chennai, Mumbai and also Branch Offices: Ahmedabad, Bangalore, Bhopal, Bhubaneshwar, Coimbatore, Guwahati, Hyderabad, Jaipur, Kanpur, Nagpur, Patna, Pune, Thiruvananthapuram.

[Ref. TXD/G-25]

PRABHAKAR RAI, Scientist 'E' & Head (TXD)

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 13 सितम्बर, 2013

का०आ० 1943.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाईन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 2 के खंड (क) के अनुसरण में उक्त अधिनियम के अधीन आन्ध्रा प्रदेश राज्य के भीतर गेल (इण्डिया) लिमिटेड की सभी पाइपलाईनों के लिए सक्षम अधिकारी के कार्यों का निर्वहन करने के लिए श्रीमती एन० सुगुना कुमारी, स्पेशल डि० कलक्टर, आन्ध्रा प्रदेश सरकार को दिनांक 23.08.2013 से प्राधिकृत करती है।

[सं० एल-14014/26/2013 -जी०पी०]

एस० पी० अग्रवाल, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 13th September, 2013

S.O. 1943.—In pursuance of clause (a) of Section 2 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), Central Government hereby authorize Smt. N. Suguna Kumari Special Dy. Collector, Government of Andhra Pradesh to perform the functions of Competent Authority for all pipelines of GAIL (India) Limited, under the said Act, within the territory of Andhra Pradesh w.e.f. 23.08.2013.

[No.L-14014/26/2013-GP.]

S.P. AGARWAL, Under Secy.

श्रम एवं रोजगार मंत्रालय

नई दिल्ली, 6 अगस्त, 2013

का०आ० 1944.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एस सी सी एल के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 50/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 06/08/2013 को प्राप्त हुआ था।

[सं० एल-22013/1/2013-आईआर (सी-II)]

बी०एम० पटनायक, डेस्क अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 6th August, 2013

S.O. 1944.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Govt. Industrial tribunal-cum-Labour Court, Hyderabad (50/2008) as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of SCCL and their workmen, which was received by the Central Government on 06.08.2013.

[No.L-22013/1/2013-IR(C-II)]

B.M. PATNAIK, Desk Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR
COURT AT HYDERABAD****Present:** SMT. M. VIJAYA LAKSHMI, Presiding Officer

Dated the 13th day of June, 2013

INDUSTRIAL DISPUTE L.C.No.50/2008

Between:

Sri Arapally Rama Swamy,
S/o Rajam,
C/o Smt. A. Sarojana, Advocate,
Flat No. G7, Ground Floor,
Rajeshwari Gayatri Sadan,
Opp: Badruka Jr. College for Girls,
Kachiguda, Hyderabad.

.....Petitioner

AND

The General Manager,
M/s. Singareni Collieries Company Ltd.,
Bellampally (P). Adilabad District.

....Respondent

APPEARANCES:

For the Petitioner : M/s. A. Sarojana & K. Vasudeva
Reddy, Advocates

For the Respondent: Sri S.M. Subhani, Advocate

AWARD

Petitioner, Sri Arapally Rama Swamy who has been working as a coal filler for the M/s. Singareni Collieries Company Ltd., filed this petition invoking Sec.2A(2) of Industrial Disputes Act, 1947 seeking for declaring the impugned order No.P.BPA/129/840 dated 20.3.1998 issued by the first respondent as illegal and arbitrary and to set aside the same consequently directing the respondents to reinstate the petitioner into service duly granting all other consequential benefits such as continuity of service, back wages and all other attendant benefits.

2. The averments made in the petition in brief are as follows: Petitioner was appointed as Floating badli filler at MVK-5 incline on 11.10.1986 and subsequently he was confirmed as Coal Filler by virtue of his sincere and hard work. He was regular to his duties till the year 1996. During the year 1996 Petitioner suffered with several ailments, such as Asthama and abdominal problem, to which he has taken treatment at company's area hospital. While so, a charge sheet dated 4.4.1997 was issued alleging that petitioner remained absent during the year 1996 which amounts to misconduct under company standing order 25.25. He submitted his explanation explaining his inability to perform his duties regularly during that year but without considering the same an enquiry was conducted with a predetermined notion. During that enquiry petitioner was

not given any opportunity much less valid in nature. Basing on such lop sided enquiry the enquiry officer held the charges as proved. Basing on the erroneous findings of the enquiry officer show cause notice was issued to which petitioner submitted his reply on 16.1.1998. However, without considering the merits of the same he was dismissed from service, with effect from 24.3.1998 vide office order dated 20.3.1998. Petitioner could not attend to his duties regularly during the year 1996 only on account of his ill-health and other family problems. He submitted the same to his authorities time and again and also pleaded that he will attend the duty without absence in future, but the same were not considered. The action of the respondents in dismissing the petitioner from service is wholly illegal, arbitrary, violative of principles of natural justice. The enquiry was not properly conducted. The procedure of enquiry was not explained to the petitioner. He was not offered the assistance of any defence assistant. Thus, he could not effectively participate in the enquiry and he could not mark the medical and other documents on his behalf to prove his ill health. Though he has shown all the prescriptions and other records pertaining to his continued ill health, none of them were marked by the enquiry officer. The submissions made by the petitioner were ignored on the pretext that he could not substantiate his claim with relevant proof. As a result of the improper conduct of enquiry great prejudice is resulted to the petitioner. He was not given opportunity to produce his witnesses. The enquiry officer relied upon the evidence of irrelevant witnesses who got no personal knowledge of the charge alleged against the petitioner and the documents which were neither shown nor furnished to the petitioner either before or during the enquiry and which are also not establishing the charge alleged. No valid reasons are given for his findings by the enquiry officer. The enquiry officer grossly erred in holding the charges as proved. The enquiry officer and the Disciplinary Authority proceeded with a preconceived notion as if petitioner accepted the charges alleged, which is not correct. The enquiry proceeding were not held in the language known to the petitioner. The findings of Disciplinary Authority are out side the scope of the charge sheet as such the impugned order of dismissal order dated 20.3.1998 is liable to be treated as bad in law. Petitioner is the sole bread winner of the family consisting of old aged parents, wife and three children. As a result of petitioner's dismissal from service his family is rendered without any livelihood. Petitioner could not attend to his duties during the year 1996 only on account of his ill health and family problems. Even otherwise the punishment of dismissal from service is too harsh, excessive and disproportionate to the charges alleged. petitioner has not gainfully employed elsewhere from the date of dismissal. Without admitting the charges alleged against the petitioner even if they are rightly held to be proved, petitioner craves indulgence of this court to modify the punishment to any other lesser punishment so as to survive himself and to look after the family. Hence the petition.

3. Respondents filed their counter with averments in brief as follows:

Petitioner has not followed the proper procedure to entertain the industrial dispute, by straight away approaching the court without seeking for conciliation. The state amendment is not applicable to the Central Government undertakings. Petitioner was dismissed from service vide order dated 20.3.1998, whereas he raised the dispute in the year 2007 without explaining the reasons for delay. Thus, the petition is liable to be dismissed for want of maintainability, delay and laches. Petitioner was dismissed from service on proved charge of absenteeism after conducting a detailed domestic enquiry duly following the principles of natural justice. Petitioner was initially appointed as floating badli filler on 11.10.1986 and drafted as coal filler w.e.f. 1.1.1995 and continued to be so till the date of his dismissal. He was issued with charge sheet No.MVK.6/28/97/649 dated 4.4.1997 for his absence from duty on various dates during the period from 1.1.1996 to 31.12.1996 without any sanctioned leave or sufficient cause under respondent company's Standing Orders 25.25 which reads as

"25.25: Habitual late attendance or habitual absence from duty without sufficient cause."

Petitioner acknowledged the receipt of charge sheet and submitted his explanation which was found unsatisfactory. As such, an enquiry was ordered by appointing an Enquiry Officer. During the year 1994 the Petitioner had put in 142 musters, in 1995-131 musters, in 1996-89 musters and in 1997-77 musters only. Petitioner claims that though he explained the reason for his inability to attend duties, the merit of the same were not considered and that with a predetermined notion the enquiry was conducted are all incorrect. Petitioner was given every opportunity to defend his case, to submit witnesses and to record evidence in his support and to cross examine the witnesses examined on behalf of the Management, during the enquiry. His contention that it is a lop sided enquiry is incorrect. His further contention that he was dismissed from service without considering merits of his submissions is also incorrect. By giving full and fair opportunity to the petitioner, in compliance of the principles of natural justice, the enquiry was conducted and disciplinary action was taken against him. The petitioner's attendance to the duties, indicates that after issuance of charge sheet and even before issuance of the charge sheet, he was not regular to duties. Being a badli filler and an under ground employee he was expected to put in minimum 190 musters per year. But he failed to do so. For the absenteeism of the petitioner during the year 1996 he was issued with a charge sheet. Despite giving opportunity petitioner failed to correct himself, which compelled the respondent to dismiss him from service. Petitioner neither disputed the enquiry proceeding nor objected for the presentation of the pay sheet clerk during the course of enquiry. He did not cross examine the

Management witnesses when opportunity was extended to him. The enquiry officer duly considered the oral and documentary evidence adduced on record and gave his reasoned finding. Petitioner failed to show as to why these findings are not valid. The contention that findings of the Disciplinary Authority are outside the scope of the charge is also not correct. If any of the employees of the respondent company whose work is inter linked and inseparable remained absent it will affect the production results. Thus, if any one remains absent without prior leave or without any justified cause it prejudices the interests of the respondent company as it creates sudden void which at times is very difficult to fill up. There will be no proper planning and the already planned schedules suddenly get disturbed, if there is not prior notice. That is the reason the why respondent company is compelled to take serious action on the unauthorized absence. Petitioner has put in 142, 131, 089 and 077 musters in 1994, 1995, 1996 and 1997 respectively when he was expected to put in minimum 190 musters in a calendar year. As such, respondent company was constrained to dismiss him from service. In view of the binding legal precedents governing this area also the respondent's action in this regard is justifiable. Petition is liable to be dismissed.

4. During the course of the present case proceedings, for petitioner, a memo has been filed conceding the validity of domestic enquiry. Thereon the domestic enquiry has been held to be valid by virtue of the order dated 30.6.2010.

5. Heard the arguments of either party.

6. The points for determination:

1. Whether the respondent's action in issuing the impugned order No. PBP A/129/840 dated 20.3.1998 is legal and justified?
2. To what relief Petitioner is entitled to?

7. Point No(1):

As can be gathered from the material on record, Petitioner, who has been working as coal filler for the respondent company remained absent from duty for several days during the year 1996 which lead to the respondent taking disciplinary action against the Petitioner, after serving charge sheet on the Petitioner whereunder it is stated that he is charged with the misconduct under Standing Orders 25.25 as he was habitually absent from duty without sufficient cause. For that Petitioner has given his explanation accepting the truth of the contention of the respondent that he was absent from duty during the relevant time but claiming that he was absent so, since he was sick and unable to attend to duty. Having not satisfied with the said explanation, enquiry was ordered against the Petitioner appointing an enquiry officer to conduct the enquiry. The enquiry officer duly conducted the enquiry, affording reasonable opportunity to the Petitioner. As already

observed above Petitioner has already conceded to the validity of the said domestic enquiry. But it is his consistent and categorical contention that he was absent from duty as he was sick but not without any reasonable cause. If such is the case, there is sufficient reason for his absence from duty.

8. As can be gathered from the enquiry proceeding produced by the respondent, even during the enquiry Petitioner has made a statement to the effect that he suffered an accident during the year 1996 and further he suffered sickness and reported sick, and under went treatment and due to these reasons he was unable to attend duties during the year 1996. Though this categorical statement was made by the Petitioner before the enquiry officer, he was not subjected to any cross examination by the presenting officer, which means, these contentions of the Petitioner remained uncontradicted to. When all these proceedings are considered *in toto*, what one can reasonably understand is that admittedly Petitioner absented himself from duty during the various dates mentioned in the charge sheet filed against him, but he was unable to attend to the duty during these days as he was sick, but not without sufficient reason. The Disciplinary Authority though, perused the entire enquiry proceedings while taking disciplinary action against the Petitioner, failed to take note of these facts. He mechanically accepted the findings of the enquiry officer, though, the enquiry report does not show that the enquiry officer has taken note of the fact that the uncontradicted statement of the Petitioner is to the effect that he was unable to attend to the duties at the relevant time, owing to sickness but not without sufficient reason. This is an one important aspect to be taken note of.

9. The Learned counsel for the respondent relied upon the principles laid down *in the case of State of U.P. and others Vs. Ashok Kumar Singh and another 1996(1) SCC 302 and also North Eastern Karnataka Road Transport Corporation 2006(5) SCC 136*, in support of his contention that when there is continuous absence from duty on the part of the workman courts can not take lenient view of the matter and they shall not interfere with the punishment awarded to them by the Disciplinary Authority.

10. As far as the case of Ashok Kumar Singh, who has been a police official, Hon'ble Apex Court dealt with the question whether the Hon'ble High Court who concurred with the findings of the Services Tribunal, can interfere with the order passed in the departmental enquiry and was confirmed by the tribunal. In this case the conduct of a police official, who was serving in such disciplined force demanding strict adherence to the rules and procedures more than any other department, was under consideration.

11. In the case of Ashappa, more than three years continuous absence from duty, came up for consideration, it's not so in the present case. Further, the facts of the case show that inspite of the employee being given opportunity

to resume his duties he remained absent for more than 3 years. Further, he was a teacher, who is supposed to conduct himself with all property. Whereas in the present case conduct of an unskilled labourer is under consideration.

12. Considering the different set of facts, discussed above which came up for consideration, in the above cited cases, Hon'ble Apex Court held that court shall not be lenient while considering such kind of absence from duty. Whereas the facts of the present case are totally different, and they do not warrant the gravest punishment possible provided for in the Standing Orders of the respondent company.

13. As can be gathered from the material on record, this is the one and only disciplinary action faced by the Petitioner for any misconduct. But the punishment awarded to him is the gravest punishment provided for, for the misconduct in the Standing Orders, though the Standing Orders of the respondent company spell out several other punishments for the misconduct. Only the persons who are incorrigible in all respects gravest punishment provided for is to be awarded. But, as already discussed above, the record shows that this is the one and only disciplinary action faced by the Petitioner that too, there is an explanation given by the Petitioner for his absence from duties which is not being contradicted to. In such case, awarding gravest possible punishment provided is certainly unwarranted. There are no reasons assigned by the Disciplinary Authority in the impugned order for awarding such gravest punishment to the Petitioner. Thus, it is to be taken that it is an arbitrary order which is liable to be set aside.

This point is answered accordingly.

14. Point No.II: In view of the finding given in Point No.1, the impugned order dated 20.3.1998 whereunder Petitioner has been ordered to be dismissed from services with effect from 24.3.1998, is liable to be set aside and he is to be ordered to be reinstated into service. But, as to the conduct of the petitioner in remaining absent from duty for long duration without intimation/sanction of leave which would certainly resulted into prejudice to the interests of the respondent company, appropriate alternative punishment is to be imposed, by way of modifying the punishment of dismissal from service imposed against him. On due consideration of the nature of the misconduct for which the punishment is to be awarded and the circumstances which lead the Petitioner to commit such misconduct, one can see that the reasonable punishment to be awarded is stoppage of one increment with commulative effect only. As far as back wages are concerned, Petitioner is not entitled for the same, since he raised industrial dispute only in the year 2008 whereas the impugned order was passed on 20.3.1998 thus, there is inordinate delay on the part of the Petitioner in raising the dispute. But, he is entitled for continuity of service and all other attendant benefits.

This point is answered accordingly.

Result

15. In the result, petition is allowed. The punishment awarded by virtue of impugned order No.P.BPA/129/840 dated 20.3.1998 by the respondent dismissing the Petitioner from service with effect from 24.3.1998, is hereby set aside. By way of modification of the punishment, Petitioner is hereby awarded with the punishment of stoppage of one increment with cumulative effect. Petitioner shall be reinstated into service with immediate effect. He is not entitled for any back wages, but he is entitled for all other attendant benefits.

This point is answered accordingly.

Award passed accordingly. Transmit.

Dictated to Smt.P.Phani Gowri, Personal Assistant transcribed by her corrected by me on this the 13th day of June, 2013.

M. VIJAYA LAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the Petitioner

-NIL-

Witnesses examined for the Respondent

-NIL-

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 13 अगस्त, 2013

का.आ. 1945.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स सी सी एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 43 का 2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/08/2013 को प्राप्त हुआ था।

[सं० एल-20012/229/2004-आईआर (सीएम-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 13th August, 2013

S.O. 1945.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 43/2005 of the Cent. Govt. Indus. Tribunal-cum-Labour Court No 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s CCL and their workmen, received by the Central Government on 13/08/2013.

[No.L-20012/229/2004-IR(CM-I)]

M. K. SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 1, DHANBAD**

In the matter of reference U/S 10(1) (d) (2A) of I.D. Act

Ref. No. 43 of 2005Employer in relation to the management of Piparwar Area,
M/s. CCL,**AND**

Their workmen.

PRESENT :SRI RANJAN KUMAR SARAN,
Presiding Officer,**APPEARANCES:**

For the Employers : Sri D.K. Verma, Advocate

For the workman : None

State : Jharkhand

Industry : Coal

Dated 19/7/2013

AWARD

By Order No. L-20012/229/2004-IR (CI), dated 31/03/2005, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the demand of the Bihar Colliery Kamgar Union from the management of CCL, Piprawar Area for reinstatement and regularization of S/Sri Gautam Singh and 31 Others (as per list) is proper and justified? If so, to what relief are the workman concerned entitled?"

ANNEXURE

1. Goutam Singh
2. Dinesh Rana
3. Suresh Nayak
4. LavKush Kr. Singh
5. Pradeep Kr. Dubey
6. Pramod Kr. Singh
7. Ram Nandan Ram
8. Mahesh Ram
9. Upendra Kr. Singh
10. Tuntun Ram
11. Jai Ram

12. Haresh Ram
13. Raja Ram
14. Sanjay Ram
15. Md. Miraj Ansari
16. Prabir Alam
17. Suresh Mahato
18. Wakil Ram
19. Rajesh Kumar
20. Vinod Nayak
21. Yogendra Ram
22. Nand Kumar Saw
23. Laxhaman Ram
24. Dilip Viswakarma
25. Laxman Gupta
26. Dhannajay Saw
27. Raju Ram
28. Bartu Ganju
29. Ajay Kr. Singh
30. Gajarnath Bhogta
31. Gopal Ganju
31. Ravi Bhgta

2. After receipt of the reference the parties are noticed. Though they took steps for certain dates, subsequently did not appears nor take any interest in the case. It is presumed that the disputes between parties have been resolved in the meantime. Hence No Dispute Award is passed.

R.K. SARAN, Presiding Officer

नई दिल्ली, 13 अगस्त, 2013

कां० 1946.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स बी सी सी एल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 89 का 2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13/08/2013 को प्राप्त हुआ था।

[सं० एल-20012/83/2005-आईआर (सीएम-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 13th August, 2013

S.O. 1946.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 89/2005) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1,

Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s BCCL and their workmen, received by the Central Government on 13/08/2013.

[No. L-20012/83/2005-IR(CM-I)]
M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of reference U/s 10 (1) (d) (2A) of I.D. Act

Ref. No. 89 of 2005

Employer in relation to the management of W. J. Area BCCL.

AND

Their workmen

APPEARANCES:

For the employers: Sri D.K. Verma, Advocate

For the Workman: Sri N.P. Gupta, Concerned Workman

State : Jharkhand

Industry : Coal

Dated 29.7.2013

AWARD

By order No. L-20012/83/2005-IR (CM-I) dtd. 2.11.2005 the Central Government in the Ministry of Labour has, in exercise of powers conferred by clause (d) of sub-section(1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of BCCL, W.J. Area in dismissing Sh. Narayan Prasad Gupta, Loader from service w.e.f. 5/6.5.1999 is just, fair and Legal? If not to what relief is the workman entitled?"

2. This case is received from the Ministry of Labour on 1.12.2005. After receipt of the reference both parties are noticed, they submitted their respective written statement and rejoinder. The workman filed ten documents Extb. W-I to Extb. W-10. On the other hand from the side of management, neither any witness has been examined nor any documents are marked.

3. The workman has been dismissed from his job on the ground of continuous absence. From the documents the workman has requested the management, to engage him and he will never be absented from duty. Considering repentance of the workman, it is felt proper, to allow his reinstatement, on duty, but without any back wages whatsoever. Here also management did not like to adduce any evidence.

4. Considering the facts and circumstances of this case, I hold that the action of the management of BCCL, W.J. Area in dismissing Shri Narayan Prasad Gupta, Loader from service 5/6.5.99 is not justified and fair, hence his is reinstated in service without back wages.

This is my Award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 16 अगस्त, 2013

कांआ 1947.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक ऑफ महाराष्ट्र के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 94/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.08.2013 को प्राप्त हुआ था।

[सं एल-12012/81/2004-आई आर (बी-II)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 16th August, 2013

S.O. 1947.—In pursuance of Section 17 of the Industrial Disputes Act, 1947, the Central Government hereby publishes the Award (CGIT/LC/R/No. 94/2004) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Maharashtra and their workman, which was received by the Central Government on 16.08.2013

[No. L-12012/81/2004-IR(B-II)]
SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/94/04

Presiding Officer : SHRI R.B. PATLE

Shri Santosh Kumar,
S/o Shri Sahadeo Nandanwar,
At & PO Karanja,
Tehsil Lanji,
Balaghat

...Workman

Versus

Regional Manager
Bank of Maharashtra,
Chawala Complex, Sai Nagar,
Raipur

...Management

AWARD

Passed on this 29th day of July, 2013

As per letter dated 18-8-2004 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-12012/81/2004-IR(B-II). The dispute under reference relates to:

"Whether the action of the Manager, Bank of Maharashtra Karanja Branch, Tehsil Lanji Distt. Balaghat (MP) in terminating the services of Shri Santosh Kumar S/o Shri Sahadeo Nandanwar, Ex-employee of Bank of Maharashtra, Karanja Branch w.e.f. 31-12-2000 is justified? If not, what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman filed Statement of claim at Page 3/1 to 3/8. However in caption, the parties are wrongly shown *vice-versa*. The case of workman is that his services were in subordinate cadre at Bank of Maharashtra for 481 days. The Branch Manager terminated his services from 31-12-2000. The bank of Maharashtra being a nationalized Bank, provisions of I.D. Act, 1947 are applicable. The service conditions of bank employees are covered by Shastri Award, Desai Award and different settlements signed between the employer and Union. That his name was registered in Employment Exchange Office, Balaghat bearing Registration No. 2779. That he was not Matriculate at the time of his first appointment. On 30.12.95, he was appointed as part-time sweeper. Prior to his selection, he was interviewed by Branch Manager, Shri B.M. Rai. His caste, Educational Qualification was considered. Interview was conducted. He was not given order in writing that one Shri Sidarth Ramteke was working as permanent part-time sweeper at Karanja branch who died on 6-6-2000. His services were utilized during the period 13-12-95 to 30-12-2000. He was paid salary in cash obtaining his signatures. Workman submits that his signature were obtained on vouchers. He was performing various kinds of duties attending post office, attending counter, vouchers and books of the bank etc. He has given details of his working in Para-5 of his statement of claim. He submits that he has worked for 480 days in Bank. His services were terminated without notice, without paying retrenchment compensation before he had continuously working for 240 days on Bank. His termination of services amounts to illegal retrenchment. On such grounds, he prays for quashing of order of his termination and reinstate with full back wages.

3. IInd party filed Written Statement at page 6/1 to 6/8. Claim of workman is denied. IInd party submits that the management engage regular staff. Considering the exigencies, the persons are engaged on contract basis on daily wages. That the Ist party workman was engaged as

casual worker for cleaning work of the Branch on daily wage basis. Ist party workman as well as the management were at liberty to engage on next day or nor and the workman had worked only for 122 days during 1997 to 2000. It is denied that workman had completed 240 days continuous service. That the discontinuation of service of workman is covered under Section 2(oo)(bb) of I.D. Act. The workman had not completed 240 days continuous service as provided under Section 25-B of I.D. Act. The workman was not regularly recruited. It is denied that workman was interviewed by Branch Manager. It is submitted that workman had never faced regular selection process. He might have asked his name, educational qualification etc. The workman was engaged on exigency. That Ist party workman concealed his passing SSC in 1996 while registering his name in Employment Exchange. Ist party not completed 240 days service preceding his date of termination. The provision of section 25-F, G of I.D. Act are not violated. Non-compliance of Section 25-F is denied. IInd party prays for rejection of claim of workman.

4. Ist party filed rejoinder denying material contentions of IInd party and reiterates his own earlier contentions. Ist party prays for his reinstatement with back wages.

5. Considering pleading on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- (i) Whether the action of the Manager, Bank of Maharashtra Karanja Branch, Tehsil Lanji Distt. Balaghat (MP) in terminating the services of Shri Santosh Kumar S/o Shri Sahadeo Nandanwar, Ex-employee of Bank of Maharashtra, Karanja Branch w.e.f. 31-12-2000 is legal?

In Negative

- (ii) If not, what relief the workman is entitled to?"

As per final order.

REASONS

6. Ist Party workman is challenging his dis-engagement from 31-12-2000. He claims that he was working for 480 days in the Bank. That he was continuously working for more than 240 days. That his services are terminated in violation of Section 25-F, G of I.D. Act. He was not given notice. IInd party submits that workman was engaged on part-time/contract basis for cleaning work. They have not completed 240 days continuous service.

7. Workman filed affidavit of his evidence covering his contentions that he had completed 240 days in each of the year prior to termination of his service. That there was not fixed time assigned to him. He was required to work for

whole day. He was appointed as peon w.e.f. 30-12-95. He completed 240 days service. His services were discontinued in violation of Section 25-F, G & H of I.D. Act. The documents Exhibit W-1 to W-4 are produced by workman. The document Exhibit W-1, W-2 are taking entries for the amount deposited. Copies of vouchers are produced. Bank has produced document Exhibit M-1 copy of rules for destruction of documents. Exhibit- M-2 is the copy of the register maintained about the destruction of record. The copies of vouchers Exhibit M-3 are produced. The vouchers finds names of Shanta Bai, Santosh Kumar, written on the reverse side. Though it is tried to be argued that workman was paid wages Rs. 5 per day, the argument cannot be accepted as voucher dated 31-5-2000 shows wages paid Rs. 10 per day. Voucher dated 22-8-2000 shows wages paid Rs. 15 per day. Therefore the calculations submitted during course of argument about working days on payment of Rs. 5 per day is contrary to the documents produced on record. The IInd party has contented that the workman was engaged as casual employee on contract basis. IInd party has not produced records despite application for production of documents was filed by the workman. Under such set of facts, evidence of workman cannot be discarded. The applicant's evidence is corroborated by voucher Exhibit M-3 and documents Exhibit W-2 and W-3.

8. In his cross-examination, workman has denied suggestions of management that he had not worked 240 days preceding his termination. Workman says during 96 to 99, he was paid amount through two accounts and debit vouchers. The writing on the register is in his handwriting. He also admits that he worked for 480 days in bank is incorrect. Considering the evidence of management's witness in cross-examination that he has no personal knowledge, he is working in Branch from 2011. That he has filed affidavit of his evidence as per the record. However the record is not produced. From 30-12-95 to 30-12-2000, the services of workman were engaged. The record of leave vacancy is destroyed. He has not seen record of the period 95 to 96. If evidence of workman is tested on probabilities, the evidence of management's witness cannot be accepted as the relevant documents are not produced. From the evidence discussed above, it is proved that workman was continuously working for 240 days prior to termination for his service. His services were terminated without notice, no retrenchment compensation was paid, therefore termination of service of workman is in violation of section 25-F of I.D. Act and as such illegal, For above reasons, I record my finding in Point No. 1 in Negative.

9. I am turning to the point as to what relief, the workman is entitled? Whether workman is entitled for reinstatement with back wages. The evidence on record shows that the Ist party workman was not appointed following selection process, the workman was engaged by IInd party during the period 1995 to December 2000 after

about 5 years. The workman is not in employment since year 2000 as the workman was not regularly selected candidate. However his services are terminated in violation of Section 25-F of I.D. Act, relief of reinstatement would not be appropriate.

10. The counsel for IInd party has placed reliance on ratio held in:—

"Case of Bhilwara Dugdh Utpadak Sahakari S. Ltd. Versus Vinod Kumar Sharma. Their Lordship considering the facts denial of rights of workman provided under Labour statutes. Workmen shown as employees of contractor or casual employees when doing work of regular employees Labour Court finding of concerned workmen to be employees of Appellant/employer and not of contractor is held correct. The employer resorted to subterfuge to avoid liabilities-Non interference of High Court with finding of fact recorded by Labour Court upheld."

The facts of present case are not comparable therefore the ratio held in above case cannot be applied to present case. Copies of award in R/48/99, R/100/01 are produced. I have carefully gone through those awards. The facts of those cases are not identical. The reinstatement of workman would not be justified as he was not appointed following selection process. The workman worked hardly 5 years. Therefore in my considered view, reasonable compensation would be appropriate. Compensation Rs. 1 Lakh would be justified. Accordingly I hold and record my finding in Point No. 2.

11. In the result, award is passed as under:—

- (1) Action of the Manager, Bank of Maharashtra Karanja Branch, Tehsil Lanji Disst. Balaghat (MP) in terminating the services of Shri Santosh Kumar S/o Shri Sahadeo Nandanwar w.e.f. 31-12-2000 is illegal.
- (2) IInd Party is directed to pay compensation Rs. 1 Lakh to the workman, retrenchment compensation equal to wages for 75 days and 30 days wages in lieu of notice pay at the rate of last wages drawn by workman.

Amount as per above order shall be paid to workman within 30 days. In case of default, amount shall carry 9% interest per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 16 अगस्त, 2013

का०आ० 1948.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सैन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 78/98)

को प्रकाशित करती है, जो केन्द्रीय सरकार को 16.08.2013 को प्राप्त हुआ था।

[सं एल-12012/32/97-आई आर (बी-II)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 16th August, 2013

S.O. 1948.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (CGIT/LC/R/ No. 78/98) of the Central Government Industrial Tribunal/ Labour Court Jabalpur as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Central Bank of India, and their workman, which was received by the Central Government on 16.08.2013.

[No. L-12012/32/97-IR (B-II)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/78/98

Presiding Officer : SHRI R.B. PATLE

Regional Secretary, MPCBEA,
MP Central Bank Employees Association,
10, Junior, MIG, Bajrang Nagar,
Indore

...Workman/Union

VERSUS

Regional Manager,
Central Bank of India,
CBI, R.O, Nirmal Bhavan,

Gwalior

...Management

AWARD

Passed on this 26th day of July, 2013

1. As per letter dated 22.4.98 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No.L-12012/32/97/IR(B-II). The dispute under reference relates to:

"Whether the action of the management of Central Bank of India in stopping 4 Annual Increments permanently in respect of Shri Dinesh Singh Parihar *w.e.f.* 6.7.94 is justified? If not, to what relief the workman is entitled?"

2. 1st party Union is challenging stoppage of 4 annual increments of Shri Dinesh Singh Parihar *w.e.f.* 6.7.94 in the dispute under reference. Even after issuing notices, the Union did not participate in the proceeding, no statement

of claim is filed. 1st Party is proceeded exparte on 18.9.07.

3. IInd party management also not filed Written Statement. From conduct of the parties, it is clear that the parties are not pursuing or participating in the dispute.

4. In the result, award is passed as under:—

"Reference is disposed off as No Dispute Award."

R.B. PATLE, Presiding Officer

नई दिल्ली, 16 अगस्त, 2013

काआ 1949.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सैन्ट्रल बैंक ऑफ इंडिया के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 77/98) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.08.2013 को प्राप्त हुआ था।

[सं एल-12012/51/97-आई आर (बी-II)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 16th August, 2013

S.O. 1949.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (CGIT/LC/R/ No. 77/98) of the Central Government Industrial -Tribunal/ Labour Court Jabalpur now as shown in the Annexure, in the Industrial Dispute between the employers in relation to the management of Central Bank of India, and their workman, which was received by the Central Government on 16.08.2013.

[No. L-12012/51/97-IR (B-II)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/R/77/98

Presiding Officer: SHRI R.B. PATLE,

Regional Secretary,
MP Central Bank Employees Association,
10, Junior, MIG, Bajrang Nagar,
Indore

...Workman/Union

VERSUS

Regional Manager,
Central Bank of India,
CBI, R.O, Nirmal Bhavan,
Gwalior

...Management

AWARD

Passed on this 29th day of July, 2013

1. As per letter dated 22.4.98 by the Government of India,

Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No.L-12012/51/97/IR(B-II). The dispute under reference relates to:

"Whether the action of the management of Central Bank of India in stopping 4 Annual increments permanently in respect of Shri P.K. Jain *w.e.f.* 18.5.95 is legal and justified? If not, to what relief the said workman is entitled?"

2. 1st party Union is challenging stoppage of one increment of Shri P.K. Jain *w.e.f.* 18.5.95 in the dispute under reference. Even after issuing notices, the Union did not participate in the proceeding, no statement of claim is filed. 1st Party is proceeded *ex parte* on 18.9.07.

3. 2nd party management also not filed Written Statement. From conduct of the parties, it is clear that the parties are not pursuing or participating in the dispute.

4. In the result, award is passed as under:—

"Reference is disposed off as No Dispute Award."

R. B. PATLE, Presiding Officer

नई दिल्ली, 16 अगस्त, 2013

का.आ. 1950.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय न. 2, धनबाद के पंचाट (संदर्भ संख्या 147/1999) को प्रकाशित करती है जो केन्द्रीय सरकार को 16.08.2013 को प्राप्त हुआ था।

[सं. एल-20012/308/1998-आई आर (सीएम-1)]

एम.के. सिंह, अनुभाग अधिकारी

New Delhi, the 16th August, 2013

S.O. 1950.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 147/1999) of the Central Government Industrial-Tribunal-cum Labour Court No. 2, Dhanbad as shown in the Annexure, in the Industrial Dispute between the management of Area VI of the BCCL and their workman, received by the Central Government on 16.08.2013.

[No.L-20012/308/1998-IR (CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

PRESENT : SHRI KISHORI RAM, Presiding Officer

In the master of an Industrial Dispute under Section 10(1) (d) of the I.D. Act, 1947.

Reference No. 147 of 1999

Parties : Employers in relation to the management of the Chief General Manager, Area VI, Kusunda of M/s BCCL and their workmen

APPEARANCES:

On behalf of the workman : None

On behalf of the : Mr. S.N. Ghosh, Ld.
Management Advocate

State: JHARKHAND Industry : COAL

Dated, Dhanbad, the 24th June, 2013

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec. 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/208/98-IR (C-I) dated 22.02.1999.

SCHEDULE

"Whether the action of the management for the Area VI of the BCCL in dismissing Smt. Shyamabai from the services for the Company *w.e.f.* 6.5.1999 is legal and justified? If not, to what relief the workwoman is entitled to."

2. Neither any representative of the Union concerned for woman worker Smt. Shyamabai nor the worker herself present for Mr. S.N. Ghosh, Ld. Advocate for the Opp./ Management could present nor any witness for the woman worker produced at preliminary point though since neither the Union nor the workwoman has been present since 8.11.2010.

Perusal of the case record reveals undue absence of the Union Representative/work woman for their proper representation as well as for her evidence, though three Regd. Notice have been issued to the Union Representative on his address noted in the reference itself. In spite of it, neither the Union Representative nor the work woman Smt. Shyamabai appeared for the proper representation in this case which is related to her dismissal from the service of the Company *w.e.f.* 6.5.1997. It appears from their conducts that the Union and the workwoman Smt. Shyamabai are disinterested/unwilling to contest the case.

Under these circumstances, proceeding with the case for uncertainty is unwarranted, as it appears no longer the Industrial Dispute extent. Hence, the case is closed and accordingly, it is passed an order of the "No Industrial Dispute" existent.

KISHORI RAM, Presiding Officer

नई दिल्ली, 16 अगस्त, 2013

का०आ 1951.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट (संदर्भ संख्या 29/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02.08.2013 को प्राप्त हुआ था।

[सं० एल-12012/342/2000-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 16th August, 2013

S.O. 1951.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 29/2001) of the Central Government Industrial - Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of State Bank of India and their workmen, received by the Central Government on 02.08.2013.

[No. L-12012/342/2000-IR (B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/29/2001

Presiding Officer: SHRI R.B. PATLE

Shri Budhan Ram,

S/o Shri Adhir Sai,

C/o Manbodh Ram,

Asstt. Director, Resham Udyog,

PO Ambikapur,

Distt. Surguja (MP)

...Workman

VERSUS

The Asstt. General Manager,

State Bank of India,

Regional Office,

Mithhubara,

PO Shahdol (MP)

...Management

AWARD

Passed on this 4th day of March, 2013

1. As per letter dated 11-1-2001 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No.L-12012/342/2000/IR (B-I). The dispute under reference relates to:

"Whether the action of the Assistant General Manager, State Bank of India, Regional Office, PO Shahdol (MP) in retrenchment of Shri Budhan Ram. S/o Shri Adhir Sai, Ex-Messenger in the Branch of State Bank of India at Kamleshwarpur with effect

from 12-12-98 is legal and justified? If not, to what relief is the concerned workman entitled for?"

2. After receiving reference, notices were issued to the parties. 1st party submitted statement of claim at Page 7/1 to 7/2. The case of 1st party/workman as per statement of claim is he was engaged as Sweeper-cum-Farrash from 26-11-79 to 16-8-81 by IInd party. Again he was engaged on 17-8-81 and discontinued on 12-12-98. 1st party workman claims that he was working continuously without break. His services were terminated giving one month's salary and retrenchment compensation. That management did not comply mandatory provisions under I.D. Act and rules. Prior permission of appropriate Government was not obtained. Mandatory provisions of Section 25-G were not followed. On those grounds, 1st party/workman prays for his reinstatement with back wages.

3. IInd party/management submitted Written Statement at Page 8/1 to 8/3. The claim of 1st party is totally denied. It is submitted that 1st party/workman was engaged on monthly basis for temporary post of messenger from 17-8-81. He was terminated on 12-12-98 after paying one month's salary Rs. 5336.42 and retrenchment compensation of Rs. 16659.11 as per Section 25-F of the I.D. Act, 1947. After retrenchment of the workman management sent information notice to ALC(C), Shahdol and RLC(C) Jabalpur in Form "P". That the services of retrenched workman are not required. IInd party/management further submits that 1st party/workman was given opportunity to participate in interview for absorption in the Bank in 1990 and 1996. However he was not found eligible for absorption. Secondly his services were terminated giving retrenchment compensation. It is further submitted that the workman was engaged on temporary basis on stop-gap arrangement and not on regular basis. In view of payment of compensation, one month's salary, termination of services of workman are not illegal. IInd party/management denied that the workman had completed more than 240 days in a calendar year preceding his termination. On such grounds, IInd party prays for rejection of prayer of workman.

4. 1st party submitted rejoinder at Page 9/1 to 9/2 contending all the points submitted in Statement of Claim and prayed for permanent absorption. As per Letter dated 14-5-92, the Branch Manager had requested Asstt. General Manager for absorption of 1st party.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|----------------|
| (i) Whether the action of the Assistant General Manager, State Bank of India, Regional Office, PO Shahdol (MP) in retrenchment of Shri Budhan Ram S/o Shri Adhir Sai, Ex-Messenger in the Branch of State Bank of India at Kamleshwarpur with effect from 12-12-98 is legal and justified. | In Affirmative |
|--|----------------|

- (ii) If not, what relief the workman is entitled to?" 1st party/workman is not entitled for reinstatement claimed by him.

REASONS

6. 1st party/workman challenged his termination/retrenchment on the ground that permission for retrenchment was not obtained. Section 25-G of I.D. Act was not followed. There is no dispute about the services of the 1st party/workman terminated giving one month's salary and retrenchment compensation. The 1st party was contented that 1st party workman was given opportunity for absorption in the year 1996 participating interview conducted by the management but the 1st party/workman was unsuccessful and not eligible for absorption. 1st party/workman filed affidavit of his evidence at Page-9 consistent with his pleadings about his initial appointment as sweeper cum farrash and subsequent engagement from 1980 to 1998. That he had worked for more than 240 days in a calendar year preceding his termination. Section 25-G is not complied. Permission was not obtained for his retrenchment. However the 1st party remained absent, not made available for his cross-examination, as such proceeded ex parte on 1-4-2011. Management filed affidavit of its witness Shri Jagesh Katiyar covering the points submitted in the Written Statement. 1st party remained absent and failed to cross-examine the witness of management. There is no reason to disbelieve his evidence on affidavit. The evidence recorded clearly shows that 1st party workman was not appointed as per rules for recruitment. He was given opportunity for absorption in 1990 and 1996. He was not found eligible for absorption. The provisions of Section 25-F are also complied. In view of those facts, workman is not appointed following procedures for recruitment. His reinstatement may amount of back door entry. Therefore the claim of 1st party cannot be accepted. The action of retrenchment by 1st party is just and legal. I therefore record my finding on Point No. 1 in affirmative and Point No. 2 in negative.

7. In the result, I pass award as under:-

- "1. Action of termination of services of 1st party by 1st party from 12-12-1989 is legal.
2. Claim of 1st party for reinstatement is rejected."

R.B. PATLE, Presiding Officer

नई दिल्ली, 19 अगस्त, 2013

कांआ 1952.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार यूको बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 76/98) को प्रकाशित करती है, जो केन्द्रीय सरकार को 18/9/2013 को प्राप्त हुआ था।

[सं एल-12012/159/97-आई आर (बी-II)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 19th August, 2013

S.O. 1952.—In pursuance of Section 17 of the Industrial Disputes Act, 1947, the Central Government hereby publishes the Award (CGIT/LC/R/No. 76/98) of the Central Government Industrial Tribunal/Labour Court, Jabalpur now as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of UCO Bank and their workman, which was received by the Central Government on 18.09.2013.

[No. L-12012/159/97-IR(B-II)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/76/98

Presiding Officer: SHRI R.B. PATLE

Indian National Bank Employees Federation,
9, Sanwer Road, Hrdev Niwas,
Ujjain.

...Workman/Union

VERSUS

The Asstt. General Manager,
UCO Bank, E-5,
Arera Colony,
Bhopal

...Management

AWARD

Passed on this 29th day of July, 2013

1. As per letter dated 24-9-1998 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No.L-12012/159/97/IR(B-II). The dispute under reference relates to:

"Whether the action of the Management of UCO Bank in stopping the increment of Shri Ramesh Borker and treating his absence period as a loss of pay even being his absence beyond his control is legal and justified? If not, to what relief the said workman is entitled?"

2. After receiving reference, notices were issued to the parties. 1st party workman filed Statement of claim at Page 8/1 to 8/4. 1st party management also filed Written Statement.

3. 1st party workman filed application for withdrawal of the reference. The management has no objection. 1st party workman is present and admits that he does not desire to prosecute the reference. The management has no objection. Therefore withdrawal of claim of 1st party is

permitted. In view that 1st party is not prosecuting his claim, No Dispute Award is passed.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 अगस्त, 2013

का.आ. 1953.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ई सी एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 58 का 1993) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/08/2013 को प्राप्त हुआ था।

[सं० एल-20012/232/1991-आई आर (सीएम-I)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 19th August, 2013

S.O. 1953.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 58/1993 of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 1 Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. ECL and their workmen, received by the Central Government on 19/08/2013.

[No. L-20012/232/1991-IR(CM-I)]

M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1) DHANBAD

In the matter of reference U/s 10 (1) (d) (2A) of I.D. Act.

Ref. No. 58 of 1993

Employer in relation to the management of Nirsa Area, Phatka Colliery M/s. ECL,

AND

Their workmen

PRESENT : Sri RAJAN KUMAR SARAN, Presiding Officer

APPEARANCES:

For the Employers : Sri D. K. Verma,
Advocate

For the workman : Sri D. Mukherjee, Rep.
State: Jharkhand Industry: Coal

AWARD

By Order No. 20012/232/91-IR (CM-I), dated 08/01/1993, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of M/s. Eastern Coalfields Limited, Nirsa Area in relation to their Phatka Colliery is not regularizing S/Sh Patal Rauth and 17 others (as per list) as water supplier is fair, just and legal? If not, to what benefit/relief the workman concerned are entitled?"

Annexure

1. Patal Rauth, S/o Bhola Rauth
2. Bhuneshwar Mahato S/o Chethnu Mahato
3. Lakhu Mahato S/o Sri Dharani Mahato
4. Chota Manic Mahato S/o Naru Mahato
5. Sankar Mahato
6. Nandu Das S/o Gobind Das
7. Dwarika Mandal S/o Bonku Mandal
8. Aneth Mahato S/o Nakul Mahato
9. Manik Mahato S/o Mukunda Mahato
10. Ganga Mahato S/o Sri Moti Mahato
11. Panu Mahato S/o Annoli Mahato
12. Budhan Mahato, S/o Late Rishi Mahato
13. Saeli Mahato S/o Nakul Mahato
14. Lakhan Mahato S/o Ramsaran Mahato
15. Kisun Mallah S/o Basudeo Mallah
16. Subodh Mahato S/o Late Jay Mahato
17. Basudev Mahato S/o Sridhar Mahato

2. After receipt of the reference the parties are noticed, Though they took steps for certain dates, subsequently did not appears nor take any interest in the case. It is presumed that the disputes between parties have been resolved in the meantime, Hence No Dispute Award is passed.

R.K. SARAN, Presiding Officer

नई दिल्ली, 19 अगस्त, 2013

का.आ. 1954.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एस सी सी एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, हैदराबाद के पंचाट (संदर्भ संख्या 45/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/08/2013 को प्राप्त हुआ था।

[सं० एल-22012/103/2011-आई आर (सी एम-II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 19th August, 2013

S.O. 1954.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 45/2011) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Hyderabad as shown in the Annexure, in the industrial dispute between the management of SCCL and their workmen, received by the Central Government on 19/08/2013.

[No. L-22012/103/2011-IR (CM-II)]

B.M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT HYDERABAD

PRESENT: Smt. M. VIJAYALAKSHMI, Presiding Officer

Dated the 22nd day of July, 2013

INDUSTRIAL DISPUTE No. I.D. 45/2011

Between:

The General Secretary
(Sri Bandari Satyanarayana)
Singareni TNTUC,
H.No. 18-3-90/3, Ganesh Nagar
Markandeya Colony,
Godavarikhani-505209.

...Petitioner

AND

The General Manager,
M/s. Singareni Collieries Company Limited,
Mandamarri Division,
Mandamarri-504 303.

...Respondent

APPEARANCES:

For the Petitioner : NIL

For the Respondent : NIL

AWARD

The Government of India, Ministry of Labour by its order No. L-22012/103/2011-IR (CM-II) dated 2.8.2011 referred the following dispute between the management of M/s. Singareni Collieries Company Ltd., and their workman under section 10(1)(d) of the I.D. Act, 1947 for adjudication to this Tribunal. The reference is,

SCHEDULE

“Whether the action the General Manager, Bhupalpalli Division, Warangal District in dismissing the services of Sri Boda Thirupathi, Ex. Badli Filler, KTK-6 Incline of Bhupalapalli Divn. with effect from 24.7.2009 is justified? To what relief the workman concerned is entitled to?”

2. The case stands posted for appearance of Petitioner union and for filing of claim statement and documents. Petitioner union called absent and there is no representation since long time. Inspite of fair opportunity claim statement was not filed by the Petitioner union. In the circumstances, taking that Petitioner is not interested in the proceedings, petition is dismissed.

Award passed accordingly. Transmit.

Dictated to Smt. P. Phani Gowri, Personal Assistant transcribed by her and corrected by me on this the 22nd day of July, 2013.

M. VIJAYALAKSHMI, Presiding Officer

Appendix of evidence

Witnesses examined for the

Petitioner

NIL

Witnesses examined

for the Respondent

NIL

Documents marked for the Petitioner

NIL

Documents marked for the Respondent

NIL

नई दिल्ली, 19 अगस्त, 2013

कांआ 1955.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स डब्ल्यू सी एल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 95/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/08/2013 को प्राप्त हुआ था।

[सं० एल-22012/32/2008-आई आर (सी एम-II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 19th August, 2013

S.O. 1955.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 95/2008) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of WCL, and their workmen, received by the Central Government on 19/08/2013.

[No. L-22012/32/2008-IR(CM-II)]

B.M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/95/2008

PRESIDING OFFICER: SHRI R.B. PATLE

General Secretary,
Sanyukta Koyala Mazdoor Sangh (AITUC),
CRO Camp, Iklehra,
ChhindwaraWorkman/Union

VERSUS

Chief General Manager,
WCL, PENCH AREA,
PO PARASIA,
ChhindwaraManagement

AWARD

Passed on this 26th day of July, 2013

1. As per letter dated 30-6-2008 by the Government of India Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section - 10 of I.D. Act, 1947 as per Notification No. L-22012/32/2008-IR (CM-II). The dispute under reference relates to:

"Whether the action of the management of M/s WCL in dismissing Shri Jitan *w.e.f.* 3-3-2007 is legal and justified? To what relief is the claimant entitled?"

2. After receiving reference, notices were issued to the parties. The workman failed to appear after several notices issued to him. Workman proceeded *ex parte* on 14-9-2011.

3. The management of IInd party filed Written Statement. It is submitted by IInd party workman was habitual absentee. He did not improve his conduct even after opportunity given to him. Charge No. 368 was issued to him. Workman submitted reply but found unsatisfactory. It was decided to conduct enquiry. Shri N.S. Bist, the then Survey Officer was appointed as Enquiry Officer. Shri Vinod Vasnik, the then Under Manager was appointed as Management Representative. The enquiry was conducted on various dates. Request of workman for co-worker was allowed. Workman admitted charges. After receiving report of the Enquiry Officer, showcause was issued, no response was received from workman. The punishment of dismissal was imposed on 3-3-07.

4. Management filed affidavit of witness of Shri M.B. Kumbhare supporting the contentions of the management that enquiry was held against workman. Charges were proved as per report of Enquiry officer. Punishment of dismissal was imposed. Copies of Enquiry proceedings are produced. The evidence of management's witness remained unchallenged. I do not find reason to disbelieve his evidence. The action of the IInd party management in dismissing Ist party workman from 3-3-07 is not shown illegal. Therefore I hold that action of the management is legal.

5. In the result, award is passed as under:—

- (1) The action of the management of M/s WCL in dismissing Shri Jitan *w.e.f.* 3-3-2007 is legal.
- (2) Relief prayed by workman is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 19 अगस्त, 2013

का०आ० 1956.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स डब्ल्यू सी एल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 93/2008) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/08/2013 को प्राप्त हुआ था।

[सं० एल-22012/32/2008-आई आर (सी एम-II)]

बी एम पटनायक, डेस्क अधिकारी

New Delhi, the 19th August, 2013

S.O. 1956.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 93/2008) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of WCL and their workmen, received by the Central Government on 19/08/2013.

[No. L-22012/32/2008-IR(CM-II)]

B.M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/93/2008

Presiding Officer: SHRI R.B. PATLE

General Secretary,
Sanyukta Koyala Mazdoor Sangh (AITUC),
CRO Camp, Iklehra,
Chhindwara ...Workman/Union

VERSUS

Chief General Manager,
WCL, PENCH AREA,
PO PARASIA,
ChhindwaraManagement

AWARD

Passed on this 26th day of July, 2013

1. As per letter dated 30-6-2008 by the Government of India Ministry of Labour, New Delhi, the reference is

received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-22012/32/2008-IR (CM-II). The dispute under reference relates to :—

"Whether the action of the management of M/s WCL in dismissing Shri Ramlal *w.e.f.* 7-3-2007 is legal and justified? To what relief is the claimant entitled?"

2. After receiving reference, notices were issued to the parties. Ist party failed to appear and file Statement of Claim. Ist party is proceeded *ex parte* as per order dated 14-9-2011.

3. IInd party filed Written Statement. IInd party submits that workman was habitual absentee. He was not interested in service. He used to remain absent unauthorisely. He did not improve his conduct despite particulars given to him. Chargesheet No. 374 was issued to the workman. Workman did not submit any reply therefore management conducted enquiry Shri N.S. Bist, the then Survey Officer was appointed as Enquiry Officer. Shri Vinod Vasnik, the then Under Manager was the management's representative. The enquiry was conducted. The Workman remained absent even after notices issued to him. After report of Enquiry Officer charges were proved, showcause notice was issued alongwith Enquiry Report. No response was receiving from workman. Considering the proved charges, punishment was imposed. The Workman did not present. No evidence is adduced.

4. Management filed affidavit of evidence of witness of Shri Kumhare. The witness has covered most of the contentions of the written statement that after holding enquiry and receiving report of Enquiry Officer, the order of punishment was issued. The workman did not availed opportunity even after issuing notices. Evidence of management's witness remained unchallenged as he was not cross-examined on behalf of workman.

5. Considering the evidence on record, action of management dismissing workman Ramlal from service cannot be said illegal. Accordingly I hold.

6. In the result, award is passed as under:—

- (1) The action of the management of M/s WCL in dismissing Shri Ramlal *w.e.f.* 7-3-2007 is legal.
- (2) Relief prayed by workman is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 19 अगस्त, 2013

काआ 1957.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एसईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम

न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 67/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19.08.2013 को प्राप्त हुआ था।

[सं एल-22012/317/2004-आईआर (सीएम-II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 19th August, 2013

S.O. 1957.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 67/2005) of the Central Government Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of South Eastern Coalfields Limited and their workmen, received by the Central Government on 19.08.2013.

[No. L-22012/317/2004-IR(CM-II)]

B.M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/67/05

Presiding Officer: SHRI R.B. PATLE

The Joint General Secretary,
Rashtriya Colliery Mazdoor Congress (INTUC),
B-24, Civil Lines, PO Kotma Colliery,
Distt. Annuppur (MP) ...Workman/Union

VERSUS

Chief General Manager,
Jamuna and Kotma Area,
South Eastern Coalfields Limited,
PO Jamuna, Distt. Annuppur,
Annuppur (MP) ...Management

AWARD

Passed on this 26th day of July, 2013

As per letter dated 15-07-2005 by the Government of India, Ministry of Labour, New Delhi the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/317/2004-IR(CM-II). The dispute under reference relates to:

"Whether the action of Chief General Manager, Jamuna and Kotma Area of SECL in superceding Shri Santosh Kumar Tripathi, Store Keeper by his junior Shri Anil Kumar Tripathi in the case of promotion of Store Keeper (Gr. I) and Sr. Store Keeper (Special Grade) and not promoting him at par with Shri Anil Kumar Tripathi is legal and justified? If not, to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman filed his statement of claim at Page 5/1 to 5/7. Case of Ist party is that he was appointed on post of General Mazdoor Cat-I on 14.1.1983. He was confirmed on said post on 1.1.1984. He was discharging duties of clerical nature since 1984 in Stores. He was promoted to the post of Store issuer in Clerical Grade III on 1.4.86 as per order dated 2.6.86. His promotion was followed by the recommendation of the Departmental Promotion Committee. He was discharging his duties as Store Incharge, Clerical Grade III with devotion. He was promoted as Asstt. Store Keeper Clerical Grade II from 5.1.88 on recommendation of DPC. His promotion was as per order dated 31.1.98. The said post was re-designated as Asstt. Store Keeper *w.e.f.* 1.1.88 as per order dated 12.1.93. He was promoted to clerical Gr.-I in Pay Scale 1222-60-1702-66-2230. He was again promoted to the post of Sr. Store Keeper in Clerical special Grade *w.e.f.* 1.9.99 as per order dated 10.9.99. He had joined promotion post of Sr. Store Keeper on 10.9.99 and discharging said duties.

3. It is alleged that management was interested to favour Shri A.K. Tripathi with a view to promote the above applicant. The management intentionally cancelled order of promotion as per order dated 28.12.2000. As per order dated 27.1.01, he was promoted to the post of Sr. Store Keeper Special Grade from 1.11.99 instead of 1.9.99. In view of the said manipulation, the workman became junior to Shri A.K. Tripathi and others. It is further submitted that Shri A.K. Tripathi was junior to the workman since his initial appointment and subsequent promotions. That the workman and Shri A.K. Tripathi both were promoted to the post of Store Keeper Gr-I on 30.1.93. In said order, workman was placed above Mr. A.K. Tripathi looking to his seniority. However in order to favour Shri A.K. Tripathi, the management had given notional seniority to him from 1.12.92. That Mr. Tripathi was neither promoted to the post of Clerical Gr-I nor he was entitled for the said post under the Cadre Scheme on 1.12.92. The workman submits that his ACRs were not adverse. There was no stigma against him. Because of notional seniority given to Shri A.K. Tripathi by favouritism, seniority of workman is affected. On such grounds, it is prayed that notional seniority given to Shri A.K. Tripathi is illegal. That workman be promoted at par with Shri A.K. Tripathi with consequential benefits.

4. Management of IInd party filed Written Statement at Page 6/1 to 6/5. The claim of Ist party workman is denied. It is submitted that Shri A.K. Tripathi is not impleaded as party. In his absence reference cannot be adjudicated. It appears that the application for impleading Shri A.K. Tripathi as party is filed but no order has passed on said application. The allegation that Ist party was superseded showing undue favour to Shri A.K. Tripathi are denied. It is submitted that workman was initially appointed as General Mazdoor Category. His services were confirmed. On appointment to the post of General Mazdoor, there is

no need to pass degree/graduation. That workman was selected for post of Clerical Grade-III as per order dated 2.6.86. Thereafter he was re-designated as Asstt. Store Keeper *w.e.f.* 5.1.88. On recommendations of the DPC, Shri S.K. Tripathi and A.K. Tripathi both were promoted to the post of Store Keeper Grade-I as per order dated 30.1.93.

5. It is submitted that inadvertently in office order No. 2021 dated 11.9.99, the workman was given promotion of Store Keeper in Clerical Special Grade. When the mistake was realized as per office order No. 3188 dated 28.12.2000, the order of promotion was cancelled with effect from 1.9.99. The workman was again promoted *w.e.f.* 1.11.99 as per order dated 27.1.2001. That A.K. Tripathi was working at the unit Store of Kotma West Mine from 1984. The workman was performing job of Store issue Clerk. He was paid officiating allowance of Clerical Grade from 1986. It was confirmed by the then Colliery Manager Kotma West Mine *vide* order dated 11-12/5/93. That he was regularized as Store Issue Clerk in Grade-III *w.e.f.* 1.1.1987 and subsequently as Asstt. Store Keeper in Gr-II *w.e.f.* 1.4.88. Thus all along Shri A.K. Tripathi was working in Store Cadre, whereas Shri S.K. Tripathi was actually working in General clerical Cadre and was regularized as Clerk Grade-III. He was later redesignated as Asstt. Store Keeper in Gr. II *w.e.f.* 5.1.1988.

6. That as regards, the notional seniority of two months granted to Shri A.K. Tripathi. He submitted that a DPC was held in the year 1992 in which 5 A.S.K. Gr.-II who are the batchmates of A.K. Tripathi were promoted to Store Keeper Gr. I *w.e.f.* 1.12.92. Out of these five, two persons were junior to Shri Tripathi as per his promotion in Grade-III. On the representation of Shri A.K. Tripathi, the Competent Authority considering this fact and his continuous working in Store Cadre from the beginning, has given notional seniority *w.e.f.* 1.12.92 without monetary benefits. That representation of Shri A.K. Tripathi was considered on ground that there were six A.S.K. Gr. II at Regional Store. In the DPC held during 1992, 5 candidates out of six were promoted from 1.12.91 to S.K. Gr. I as per available vacancy. The 6th candidate A.K. Tripathi whose date of coming to Gr. II was the same of other persons *i.e.* 1.4.88 couldnot be considered due to non-availability of vacancy. Thereafter he was promoted *w.e.f.* 30.1.93. That Shri A.P. Mishra, A.P. Upadhyay both A.S.K. Gr. II promoted among 5 persons are junior to Shri A.K. Tripathi. Ist party workman was not superseding. On such grounds, IInd party prays for rejection of the claim of Ist party workman.

7. Ist party workman filed rejoinder at Page 8/1 to 8/6 reiterating his earlier contentions about his initial appointment and promotions. That Shri A.K. Tripathi was shown favour and he was superseded. Notional seniority given by management to Shri A.K. Tripathi is illegal.

8. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|---------------------|
| (i) Whether the action of Chief General Manager, Jamuna and Kotma Areas of SECL in superseding Shri Santosh Kumar Tripathi, Store Keeper by his junior Shri Anil Kumar Tripathi in the case of promotion of Store Keeper (Gr. I) and Sr. Store Keeper (Special Grade) and not promoting him at par with Shri Anil Kumar Tripathi is legal? | In Negative |
| (ii) If not, what relief the workman is entitled to?" | As per final order. |

REASONS

9. Ist past workman alleges that Shri A.K. Tripathi was given promotion by favoritism Notional seniorty was illegally given to him on 5.12.94 but inadvertently affected his seniority. Management denied those allegations. Ist party workman filed affidavit of his evidence stating the facts that he was appointed on the post of General Mazdoor Category I on 14.1.83. He was confirmed on the said post on 1.1.1984. He was promoted to the post of Store Issue Grade-III on 1.4.86. He was discharging duties of Store Issuer Clerk Grade-III. He was promoted to the post of Store Keeper Clerical Grade II on 5.1.88 on recommendations of DPC as per order dated 31.1.88. Said post was re-designated as Asstt. Store Keeper Grade-II *w.e.f.* 5.1.88 as per order dated 12.1.93. That he was further promoted to the post of Sr. Store Keeper Clerical Special Grade from 1.9.99. Said order of promotion was cancelled as per order dated 28.12.2000. Fresh order of promotion was issued on 27.1.01. He was promoted *w.e.f.* 1.11.99. That Shri A.K. Tripathi was junior to him. At the time of initial appointment both of them were promoted to the post of Store Keeper Grade-I from 30.1.93. That Shri A.K. Tripathi was illegally given notional seniority *w.e.f.* 1.12.1992

10. In his cross-examination, Ist party workman has stated about his promotion to Store Keeper and re-designation of said post. His evidence on all those points is not shattered in his cross-examination. It is denied that Shri A.K. Tripathi was working as Store Clerk since beginning. That Shri A.K. Tripathi was appointed as General Mazdoor. He did not recollect the date. He was appointed at Kotma Mines. He claims ignorance that Shri A.K. Tripathi was granted officiating allowance for working as Store Issue Clerk. He also claims ignorance whether Shri A.K. Tripathi was appointed from 1.1.1987 as Store Issue Clerk. It is denied that he was working in General Cadre and Shri A.K. Tripathi was working in Store Cadre. Workman had stated that both of them were in General Cadre itself.

Workman in his further cross-examination claims ignorance in 1992, 5 Assistant Store Keepers were promoted on recommendation of DPC. He reiterates that 2 months notional seniorty given to Shri A.K. Tripathi is illegal.

11. Management witness Shri P. Mohanty stated most of the facts pleaded in Written Statement filed by II party. That recommendation of DPC Shri S.K. Tripathi and Shri A.K. Tripathi were promoted to the post of Store Keeper *vide* order dated 30.1.83. That inadvertently, order dated 11.9.99 was issued under which the workman was given promotion to the post of Sr. Store Keeper Clerk Special Grade. When mistake was realized, said office order was cancelled as per order dated 20.12.2000 with retrospective effect from 1.9.99. That Shri A.K. Tripathi was working in Unit Store Kotma Mines from 1984 performing job of Store Issue Clerk for which he was paid allowance from clerk Grade from 1986. It was confirmed by the then Colliery Manager Kotma West Mine as per order dated 12.5.93. That accordingly he was regularized as Store Issuer Grade-III *w.e.f.* 1.1.1987. Subsequently placed as Asstt. Store Keeper in Grade-II from 1.4.88. However the management has not produced those documents. Management has produced documents M-1 copy of order dated 10.4.88. Shri A.K. Tripathi along with other employees was promoted to A.S.K. Gr. II from 1.4.88. Exhibit M-2 is the order granting notional seniority to Shri A.K. Tripathi as per his request. Exhibit M-3 is letter dated 12.5.93 issued by Manager, Kotma Mines informing that Shri A.K. Tripathi was earlier working at Unit Store of Kotma West Mines since 1984 to August, 1986 as Mazdoor but he was performing job of Store Issue Clerk.

12. In his cross-examination, management's witness says that Shri A.K. Tripathi was senior to workman Shri Santosh Tripathi but he had not seen the appointment letter. On 30.1.93, DPC recommended their names for promotion to Store Keeper Grade-I and accordingly they were promoted. Name of Shri S.K. Tripathi the workman was placed above name of Shri A.K. Tripathi. Thus the claim of workman is substantiated that because of seniority, his name was placed above Shri A.K. Tripathi. That workman Shri S.K. Tripathi was promoted as Sr. Store Keeper Clerical Grade-I on 10.9.99. Name of Shri A.K. Tripathi was not in said order. He claims ignorance whether his name was not recommended by DPC. The order of 1999 was cancelled as per order dated 28.12.2000. Reasons for cancellation are not given in the order. On 12.7.93, notional seniority was given to Shri A.K. Tripathi from 1.12.92 on the ground that his junior were promoted. At that time, case of Shri S.K. Tripathi was not considered. There was no application of workman Shri S.K. Tripathi at that time. That S.K. Tripathi was Asstt. Store Keeper from 1.1.1988. He was re-designated as Store Keeper. The note sheet dated 8.7.93 signed by Personnel Manager P. Chakravorty Exhibit M-2

the name of Shri S.K. Tripathi is not considered. Management's witness states that workman was in General Cadre and both of them were brought to Store Cadre. Shri A.K. Tripathi was in store cadre prior to the workman. The documents produced by Ist party workman Exhibit W-1 date of his appointment as General Mazdoor Category is 14.1.83, Exhibit W-2 he was promoted to Clerical Grade III on 2.6.86. Name of Shri A.K. Tripathi is not appearing in Exhibit W-4. Document W-3 order of placing workman in Clerk Grade-II from 5.1.88 Name of Shri A.K. Tripathi is not appearing in it. Exhibit W-4 Shri S.K. Tripathi workman was re-designated as Asstt. Store Keeper from 5.1.88. The order was issued on 12.1.93. Exhibit W-5 Ist party workman and Shri A.K. Tripathi were promoted to Store Keeper Grade I on 30.1.93. The name of workman is placed above Shri A.K. Tripathi. It supports claim of workman that he was senior therefore his name was placed above Shri A.K. Tripathi to substantiate Exhibit W-6 workman Shri S.K. Tripathi was promoted to the post of Sr. Store Keeper in Clerical Special Grade as per order dated 10.9.99. Name of Shri A.K. Tripathi is not appearing in it. Exhibit W-7 is order of cancellation of promotion of workman from 1.9.99. Exhibit W-8 is corrected order of promotion issued on 27.1.01. Workman was given promotion from 1.11.99. Document Exhibit W-7, W-8 are not giving any reasons for cancellation of promotion of workman and promoting him from 1.11.99. Exhibit W-9 is order dated 23.2.98 Shri A.K. Tripathi was promoted from Store Keeper Grade-I to Sr. Store Special Grade. As per order Exhibit W-5 workman was senior to Shri A.K. Tripathi, he was placed above his name at the time of promotion of Store Keeper Grade-I. The documents donot explain how workman had lost his seniority above Shri A.K. Tripathi why workman was not promoted on 23.2.98 to the post of Sr. Store Keeper Special Grade. Exhibit W-10 is order dated 12.7.93 giving notional seniority of Shri A.K. Tripathi from 1.12.92.

13. The evidence produced on record donot show any reasons why the workman lost his seniority, how Shri A.K. Tripathi was promoted as per order Exhibit W-10 superseding the workman. Therefore the action taken by IInd party management granting notional seniority to Shri A.K. Tripathi and issuing order of cancellation of promotion of Ist party workman are not supported by any reasons. Therefore the action of the management is illegal. The seniority of Ist party workman is interfered for no reasons. The contentions of Ist party workman that Shri A.K. Tripathi is shown favour and intentionally his promotion orders are cancelled is supported by the evidence discussed above.

14. At the time of arguing learned counsel for IInd party Mr. Shashi submits that Shri A.K. Tripathi is not included as party therefore the reference cannot be adjudicated. The order of reference is not challenged or set aside. The legal position is settled that the reference received by this Tribunal needs to be decided either way.

Therefore it is obligatory for me to decide the reference as it is received. The evidence discussed above supports the claim of workman that order of promotion were illegally cancelled. Shri A.K. Tripathi was illegally given notional seniority. The certificate issued by Kotma mines Exhibit M-3 on 11-5-93 that Shri A.K. Tripathi was working at the Store Korma Mines since 1984 to 1986. difference of wages were paid to him is not supported by any orders at the relevant time. The document Exhibit M-1 finds endorsement in handwriting against name of Shri A.K. Tripathi appears made subsequently. It does not substantiate contentions of the management. For above reasons, I record my finding in Point No. 1 in Negative.

15. Point No. 2-In view of my finding in Point No. 1 in Negative, the question arises as to what relief the workman is entitled. The order of promotion of Ist party workman to the post of Store Keeper Grade-I clerical Special Grade dated 10-9-99 is cancelled as per order Exhibit W-7 dated 28-12-2000 and the workman was promoted as per order Exhibit W-8 dated 26-1-01 from 1-11-99. The order Exhibit W-7 & 8 are illegal. The notional seniority given to Shri A.K. Tripathi as per order dated 12-7-93 is illegal. Therefore the order dated 28-12-2000 and 27-12-01 deserves to be quashed and promotion of workman as per order dated 10-9-99 needs to be confirmed. Accordingly I hold.

16. In the result, award is passed as under:-

- (1) The action of Chief General Manager, Jamuna and Kotma Area of SECL in superseding Shri Santosh Kumar Tripathi, Store Keeper by his junior Shri Anil Kumar Tripathi in the case of promotion of Store Keeper (Gr. I) and Sr. Store Keeper (Special Grade) and not promoting him at par with Shri Anil Kumar Tripathi is illegal.
- (2) Orders of cancellation of promotion of workman dated 28-12-2000 and issuing fresh order of his promotion dated 27-1-2001 are quashed. The promotion of Ist party workman as per order dated 10-9-99 on the post of Sr. Store Keeper Special Grade is confirmed.

R.B. PATLE, Presiding Officer

नई दिल्ली, 19 अगस्त, 2013

का.आ. 1958.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स ए एस आई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या 131/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/08/2013 को प्राप्त हुआ था।

[सं एल-42012/40/2005-आई आर (सी एम-II)]

बी.एम. पटनायक, डेस्क अधिकारी

New Delhi, the 19th August, 2013

S.O. 1958.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 131/2005 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Archaeological Survey of India, and their workmen, received by the Central Government on 19/08/2013.

[No. L-42012/40/2005-IR (CM-II)]
B. M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/131/2005

SHRI R.B. PATLE : PRESIDING OFFICER

Shri Ram Kishan,
Vill. Taapura,
Tehsil Budni
Distt. Sehore,
Madhya Pradesh

...Workman

VERSUS

The Superintendent Archaeologist,
Archaeological Survey of India,
GTB Complex, T.T. Nagar,
Bhopal (MP)

...Management

AWARD

Passed on this 19th day of July 2013

1. As per letter dated 6-12-2005 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D. Act, 1947 as per Notification No. L-42012/40/2005-IR (CM-II). The dispute under reference relates to:

"Whether the action of Superintending Archaeologist, Archaeological Survey of India, Bhopal in terminating the services of Shri Ram Kishan w.e.f. 23-1-97 is legal and justified? If not, to what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party workman filed Statement of claim at Page 5/1 to 5/2. The case of Ist party is that he was engaged as chowkidar by IInd party in 1976. He was posted at Archaeological department, Bhopal. He was continuously working till 23-1-97. That management circulated letters dated 26-8-85 invited all casual labors as per seniority for regularization. The Ist party workman considered eligible

for said benefit approached to the management. He was assured that his name was forwarded to higher authorities for regularization of his services. That on such assurance, he returned back. He thought that he will be regularized. However on 23-1-97, his services were terminated without assigning reasons in violation of section 25-F of I.D. Act. that principles of last come first go was not followed. On such grounds, Ist party is requesting for reinstatement with consequential benefits.

3. IInd party filed Written Statement at Page 10/1 to 10/4. The case of IInd party is that the engagement of Ist party from 1976 is denied. It is denied that Ist party was continuously working till 1997. According to IInd party, workman worked only for 8 days in May 1976, 30 days in June, 31 days in August and 30 days in September. He had not completed 240 days service. He is not entitled to protection of I.D. Act. He is not entitled for regularization. All other contrary contentions of workman are denied. The judgments in other cases are referred in the Written Statement. IInd party submits that workman is not entitled to reliefs prayed by him.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|---------------------------------------|
| (i) Whether the action of Superintending Archaeologist, Archaeological survey of India, Bhopal in terminating the services of Shri Ram Kishan w.e.f. 23-1-97 is legal | In Affirmative |
| (ii) If so, to what relief the workman is entitled to?" | Relief prayed by workman is rejected. |

REASONS

5. Though both the parties filed their statement of claim and Written Statement, parties failed to participate in the reference proceeding. No evidence is adduced by either parties. As such workman has failed to substantiate his contentions about illegality in terminating his services. For above reasons, I record my finding in Point No. 1 in Affirmative.

6. In the result, award is passed as under:-

1. The action of Superintending Archaeologist, Archaeological survey of India, Bhopal in terminating the services of Shri Ram Kishan w.e.f. 23-1-97 is legal.
2. Relief prayed by workman is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 19 अगस्त, 2013

का.आ. 1959.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स डब्ल्यू सी एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 218/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/08/2013 को प्राप्त हुआ था।

[सं एल-22012/302/1998-आई आर (सी एम-II)
बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 19th August, 2013

S.O. 1959.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 218/1999) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of WCL, and their workmen, received by the Central Government on 19/08/2013.

[No. L-22012/302/1998-IR (CM-II)]
B.M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/218/99

PRESIDING OFFICER : SHRIR.B. PATLE

The Secretary,
R.K.K.M.S (INTUC),
Pench Kanhan Area,
Camp Nandan Mine No. 2,
PO Nandan,
Distt. Chhindwara (MP)

....Workman/Union

VERSUS

General Manager,
WCL, Kanhan Area,
PO Dungaria,
Distt. Chhindwara (MP)

....Management

AWARD

Passed on this 24th day of July, 2013

1. As per letter dated 24-5-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/302/98/IR (CM-II). The dispute under reference relates to:

Whether the action of the management of WCL, Kanhan Area i.e. General Manager, WCL, Kanhan

Area, PO Dungaria, Distt. Chhindwara (MP) in not giving promotion to Shri P. Modi, Head Clerk of Nandan Mine No. 2 and giving promotion to his juniors is justified? If not, to what relief is the workman entitled?"

2. After receiving reference, notices were issued to the parties. 1st party Union submitted Statement of claim at Page 3/1 to 3/5. The case of 1st party Union is that workman P. Modi is BA, he was appointed as Clerk Gr. III on 16-1-74 at Damoh Colliery of WCL. He was confirmed on 1-5-75. Mr. P. Modi was promoted from Gr. I on 1-5-76 vide order dated 21-6-76. That service conditions of the employees are governed by National Coal Wage Agreement signed by the employer and its functioning trade unions. The cadre scheme for the promotion of the General Clerical Cadre (2) Store Personnel Cadre, (3) Cash Personnel Cadre, (4) Accounts Cadre, (5) Secretariate Cadre and (6) Loading, Despatch and Sales Cadre. The Bipartite Agreement is binding as per Section 18(1) of I.D. Act. the Selection of candidates for filling vacancies in higher cadres is made after recommendation of DPC constituted by Competent Authority. The Union further submits that the management intentionally adopted rigid view as Shri P. Modi was concerned with Union activities. It is submitted that Shri K.K. Sharma was granted promotion from Clerical grade-II to Gr. I from 1-6-78 by Order dated 30-5-78. Mr. Sharma is junior to Mr. Modi. Though Mr. Modi was promoted in Clerk Grade-II on 1-5-76, Sharma was promoted to clerical Grade-II on 1-1-77, unmerited, promotion was given to Mr. Sharma. Subsequently also Mr. Sharma was promoted specially from Grade-I to Special Grade on 14-12-87 and from Special Gr-II to P & S Grade on 4-6-95. Workman Mr. Modi was promoted on 16-12-80 in Grade-I after various representations.

The Union further submits that the management shows favour, to Shri S.A. Joshi, K.K. Sharma regardless of merit to defeat Mr. Modi refusing higher promotions to him to clerical Special Grade. That vacancy for special Gr. Clerk was notified by Area Personnel Manager, Kanhan on 1-2-87 for promotion. The departmental promotion Committee was constituted. Name of workman Shri P. Modi was at Sl. No. 13 in the list. However he interview dated 10-2-87 was postponed for the reasons that biodata and CRs were not collected. It is alleged that modified office order dated 9-4-87 was modified for written test on 19-4-87. The name of workman P. Modi was intentionally omitted from the list. He was debarred from the test.

4. The Union further reiterates that Mr. K.K. Sharma, S.S. Joshi were promoted and workman Modi denied promotion. Though Sharma was junior, he was promoted. That Mr. Joshi Accounts clerk was promoted in General Cadre from Clerical Grade 1st to Special Grade on 1-8-85 and subsequently on the post of T & S Grade A in General Cadre on 17-3-92 in violation of Rules of NCWA. That it is alleged that management adopted pick and choose policy

ignoring the seniority and merit of Shri P. Modi. Hisamuddin who had passed 8th standard was promoted to the post of Special grade vide order dated 4-12-87. Details of the appointments and promotions of P. Modi, K.K. Sharma, S.S. Joshi and Hisamuddin are given in detail by 1st party Union. Shri P. Modi was initially appointed on 16-1-74. Shri K.K. Sharma on 1-10-75, S.S. Joshi on 24-1-74 & Hisamuddin on 14-5-75. Hisamuddin passed 7th standard and all others passed BA. Modi was promoted on 1-5-76 to Gr. II, K.K. Sharma on 1-6-77, S.S. Joshi on 1-5-76 and Hisamuddin on 1-6-76. On such grounds, Union prays that P. Modi be given promotion from the date Mr. Sharma and S.S. Joshi were promoted.

5. IInd party management filed Written Statement denying relief prayed by the Union. It is submitted that the reference is not tenable as workman P. Modi is not member of the RKKMS Union. That Mr. K.K. Sharma, S.S. Joshi and Hisamuddin would be the aggrieved persons and as such necessary party to the dispute, they are not included. As such the terms of reference is vague. That IInd party is registered under Indian Companies Act. The service conditions of employees are covered by NCWA and settlements. The cadre scheme formulated for promotion of employees. The services of employees are also covered by standing orders. That for purpose of promotions, post of clerk Gr. III, Gr. II, Gr. I is on seniority cum merit basis. The promotions from Gr. I to Special Gr. Clerk is on merit cum seniority basis at area level. The allegation of the promotion by favouritism are denied. That the workman was appointed as Clerk Gr. III on 16-1-74, he was confirmed on 1-5-75, he was promoted to clerk Gr. II on 1-5-76, that nomenclature, categorization are part of NCWA. The Cadre scheme providing different cadres is not in dispute. The criteria for promotion is laid down are considered by DPC. The marks are given as per following the criteria, performance CR-10 marks, seniority-5 marks, Educational qualification-10 marks, for every completed year, educational qualification-10 marks. The details about Mr. K.K. Sharma, S.S. Joshi, P. Modi are given with respect to their appointments in Clerical Gr. III, promotion Gr. II, Gr-I Unit Special Grade Promotion Shri K.K. Sharma on 7-12-87, S.S. Joshi — 10-10-85. The contentions of Union about discrimination or unmerited promotion given to Mr. Sharma, S.S. Joshi are denied. It is submitted that reference has been made as part of Union activities, necessary parties re not impleaded. The workman was given promotion from time to time whenever found eligible. He cannot compare his case with K.K. Joshi, no adverse order can be passed against him unless they are included as party to the dispute. On such contentions, IInd party prays for rejection of claim of the Union.

6. 1st party filed rejoinder reiterating his earlier contentions that though Mr. Modi was senior, K.K. Joshi and other employees were given unmerited promotions in violation of the rules and regulations of NCWA.

7. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|---|
| (i) Whether the action of the management of WCL, Kanhan Area i.e. General Manager, WCL, Kanhan Area, PO Dungaria, Distt. Chhindwara (MP) in not giving promotion to Shri P. Modi, Head Clerk of Nandan Mine No. 2 and giving promotion to his juniors is legal? | Action of management is not legal. |
| (ii) If not, what relief the workman is entitled to?" | Union is not entitled to relief prayed. |

REASONS

8. Union has initiated reference proceeding advocating case of Shri P. Modi Head Clerk working in Nandan Mine . It is alleged that though Mr. Modi is senior to Shri K.K. Sharma and Shri Joshi, he was discriminated. He was not promoted to the clerk Special Grade. Mr. Sharma and Shri S.L. Joshi were granted unmerited promotions to clerk Gr.I Special Grade and T&S Grade. IInd party management denied those allegation of the Union. The affidavit is filed by Shri P. Modi himself. He has covered most of the facts pleaded in Statement of claim filed by Union. He has also stated new facts about promotion granted to Mr. Gupta in Special Grade in 1975. That in 1987 DPC was constituted for promotion for the post of Clerk Special Gr. His name was included in the list but the interview was cancelled for some reasons. His name was not appearing in the next list prepared on 9-4-87. He was not called for interview. That Mr. P. Parvesh Pankti was promoted to clerk Gr-I on 21-9-90. He was given unmerited promotion. One Ram Kumar Srivas Clerk was also given promotion on 12-9-90.

9. In his cross-examination, workman says that he was working as Head Clerk but there is no discrimination of Head Clerk. The discrimination is Sr. Clerk Special Grade. That there was no prescribed time limit for promotion to Clerk Gr. II. After cadre scheme was introduced, the promotion from General Mazdoor to Gr. II, 3 year working is made necessary It is denied that 6 years time limit is prescribed. He was granted promotion to Clerk Gr-II considering his performance of work. The employees with whom he compares were not promoted considering nature of the job. That Shri S.L. Joshi was promoted alongwith him on 1-5-76 considering nature of job. The witness denies suggestion that he was granted promotion as management was pleased with him. That for promotion, seniority is required to be considered. That he has grievance about promotion to clerk Grade-I. In 1979,

he had raised the point of promotion of Clerk Gr. I but he has no evidence about it. That he has no dispute about promotion to clerical Grade-II. That he has document about work of typing. The witness agreed to produce it on record but no documents are produced by the witness that promotion of Gr-I was on unit basis. The witness agrees that comparison of promotion of employees in other unit is not proper. That from Grade-I to Special Grade, promotion were after introduction of Cadre Scheme. Shri S.L. Joshi and K.K. Sharma were appointed after him. Therefore he considered senior to them. That Shri S.L. Joshi was promoted alongwith him therefore he has no dispute about it. The witness denied that basis for promotion is seniority cum merit. Again says that for promotion, merit cum seniority is the basis. The entire evidence does not show how he is denied promotions after introduction of the Cadre Scheme. The evidence of Shri P. Modi that his name was included in the list for interview by DPC in 1987 is not supported by any document, evidence of witness on above point cannot be accepted. The witness has no grievance about promotion of Shri S.L. Joshi, he has no grievance about promotion to Clerk Grade-I. The entire evidence of workman does not spell out illegality committed by the management. In 1987, workman was not called for interview for promotion to Clerk Special Grade.

10. The evidence of management's witness Shri Arun Khobragade is simply in nature of denial of the allegation of workman. In his cross-examination, he did not remember whether Mr. Modi was senior to Shri K.K. Sharma and S.L. Joshi, Shri Joshi was appointed in 1975, Modi was appointed in 1974. Considering their subsequent promotions to clerk Grade-I, the claim of Shri Modi about his seniority cannot be accepted. Besides above, Mr. Modi claims that he was senior to Shri K.K. Sharma and S.L. Joshi, they were granted promotions, they are not included as parties. In their absence, the claim of 1st party workman cannot be accepted. For above reasons, I hold my finding in Point No.1 that action of the management of IInd party is not proved illegal.

11. Point No. 2- In view of my finding in Point No.1, Union is not entitled to relief prayed by them. Accordingly I record my finding in Point No. 2.

12. In the result, award is passed as under:-

- (1) Action of the management of WCL, Kanhan Area i.e. General Manager, WCL, Kanhan Area, PO Dungaria, Distt. Chhindwara (MP) in not giving promotion to Shri P. Modi, Head Clerk of Nandan Mine No. 2 and giving promotion to his juniors as alleged is not proved illegal.
- (2) Relief prayed by Union are rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 19 अगस्त, 2013

कांआ 1960.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एस ई सी एल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 124/1995) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/08/2013 को प्राप्त हुआ था।

[सं० एल-22012/263/1995-आईआर(सीएम-II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 19th August, 2013

S.O. 1960.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 124/1996) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of SECL, and their workmen, received by the Central Government on 19/08/2013.

[No. L-22012/263/1995-IR(CM-II)]

B.M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/124/96

PRESIDING OFFICER: SHRI R.B. PATLE

The President,
NCWF Union,
Rajnagar Colliery,
Distt. Shahdol

...Workman/Union

VERSUS

General Manager,
SECL, Hasdeo Area,
Distt. Surguja (MP)

...Management

AWARD

Passed on this 30th day of July, 2013

1. As per letter dated 2-5-96 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-22012/263/95-IR . (CM-II). The dispute under reference relates to:

" Whether the demand No. 2, 9, 10 & 23 raised by the Mahanadi Colliery Workers Federation *vide* their strike notice dated 12-12-93 against the management of SECL (Hasdeo Area) are legal and justified? If so,

what relief the workmen are entitled to?"

2. After receiving reference, notices issued to parties. 1st party Union filed statement of claim at Page 4/1 to 4/13. The Union had issue strike notice dated 17-12-93 raising various demands. The Demand No. 2, 9, 10, 23 were not settled in conciliation, failure report was submitted and the reference is made by the Central Govt. Demand No. 2 of the Union was relating to the employees suffering from disablement excluding certain decisions are referred to the Medical Board. The Union demanded that employees requested be referred for Medical Examination to the Board. The Union has given reasons for justification of the said demand. That screening Committee constituted by the management for sending to the medical Board is not necessary. Demand No. 9 of the Union related to T.T. Munshi paid 1 hour overtime charging allowance. However in Jhagrakhand, Palki, Maada, Bijuri and other incline, it be made 1 hour overtime charging allowance be paid to them. The Union has given reasons for decision of the said demand. Demand No. 10 of the Union related to that the security guard be allowed pay protection while fixing their pay and arrears be paid. Demand No. 23 related to the ladies peon working in Regional Office and other office were paid salary of Cat-I is legal. The Union demanded that all ladies be appointed as lady peon and regularized their services and arrears be paid.

3. IInd party filed Written Statement at Page 7/1 to 7/4 opposing demands of Union. With respect to the demand No. 2 it is submitted that provisions of NCWA regarding employment is available. The employment to one dependent of worker is permanently disabled. The disablement should arise from injury or disease, be of a permanent nature resulting into loss of employment and it should be so certified by the coal company concerned. In case of disablement arising out of general physical disability so certified by coal company concerned, not arising out of injury or disease as in para(i) above, the concerned employee will be eligible for the benefit under this clause of the employee is upto the age of 58 years.

4. That the Chairman and Specialist doctors are included in Screening committee. The Medical Board after examining declares worker fit or unfit. The appeal is provided against decision of the Medical Board. IInd party also opposed the other demands of the Union for different reasons and prayed for rejection of demands of Union.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|---|-------------|
| (i) Whether the demand No. 2, 9, 10 & 23 raised by the Mahanadi Colliery Workers Federation vide their strike notice dated 12-12-93 | In Negative |
|---|-------------|

against the management of SECL (Hasdeo Area) are legal?

- | | |
|---|-------------------------------------|
| (ii) If not, what relief the workman is entitled to?" | Relief prayed by Union is rejected. |
|---|-------------------------------------|

REASONS

6. Though the Union submitted statement of claim supporting Demands No. 2, 9, 10, 23 as per strike notice dated 17-12-93. The Union failed to adduce evidence in support of its demands. In spite of repeated chances allowed to union, no evidence is adduced in support of the demands.

7. Management filed affidavit of its witness Shri Anjani Sharan supporting the management's claim that demands of the Union are not justified. The witness has reproduced provisions of NCWA- 9.4.3(i) relating to employment to dependent of the workman permanently disabled. That Labour force of 7 lakh workers is working in Coal Industry. That reasonable guidelines are issued in the matter of disablement and disease classified for disablement include major disease like cancer, paralysis, Heart disease etc. That demand No. 9 of Union for giving one hour overtime to Tubewriter is opposed. That it is denied that T.T. Munshi has to explain entire picture of work done, the proposed work security measures to be taken, handover the charges etc. Rest of the demands are also opposed by witness giving different reasons. The evidence of management's witness remained unchallenged. Management's witness was not cross-examined.

8. The Union has not participated in the reference proceeding though the evidence is adduced. Management witness is not cross-examined. There is no evidence to establish justification for Demand No. 2, 9, 10 & 23 of Union. Therefore I record my finding on Point No. 1 in Negative.

9. In the result, award is passed as under:-

- (1) Demand No. 2, 9, 10 & 23 of Union in Strike Notice dated 12-12-93 against the management of SECL are not legal.
- (2) Relief prayed by Union is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 19 अगस्त, 2013

का.आ. 1961.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एस ई सी एल के प्रबंधन के संबंध में निरदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 93/1933) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/08/2013 को प्राप्त हुआ था।

[सं० एल-22012/5/1993-आईआर (सीएम-II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 19th August, 2013

S.O. 1961.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 93/1993) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of SECL and their workmen, received by the Central Government on 19/08/2013.

[No. L-22012/5/1993-IR (CM-II)]
B.M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-COURT, JABALPUR

NO. CGIT/LC/R/93/93

PRESIDING OFFICER: SHRI R.B. PATLE

General Secretary,
National Colliery Workers Federation,
PO South Jhagrakhand Colliery,
Distt. Surguja ...Workman/Union

VERSUS

Sub Area Manager,
Jhagrakhand R.O.,
PO West Jhagrakhand Colliery,
Distt. Surguja (MP) ...Management

AWARD

Passed on this 17th day of July, 2013

1. As Per letter dated 30-4-93 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section - 10 of I.D. Act, 1947 as per Notification No. L-22012/5/93-IR(C-II). The dispute under reference relates to:

"Whether the action of Sub Area Manager, Jhagrakhand Sub Area of SECLtd., Hasdeo Area of SECL in terminating the services of the employees named in the Annexure w.e.f January 1989 is legal and justified? If not, to what relief the workmen are entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party Union filed statement of claim at Page 2/1 to 2/6. The case of Ist party workman is that workmen shown in Annexure were employed with West Jhagrakhand Colliery in Coal Handling Plant. Subsequently all such workers in May 1986 were transferred to B. Seem Colliery. After their transfer to B. Seem Colliery in May, 1986, they were posted for underground work carrying all mining operations including tub-loading. They were paid salary of General Mazdoor Cat-I under the NCWA-III & IV. The payments were made to all such workers directly by the

company. The supervision of the work was also performed by the supervisors deployed by the company.

3. The management shown artificial contractor in the name of one Mr. Ramlal. Ramlal according to management was contractor who was deploying the aforesaid persons. That Ramlal was never a contractor and has never obtained licence under provisions of Contract Labour (Regulation and Abolition) Act, 1970. He himself was employee working along with all the workmen shown in the Annexure to the terms of reference. The management for purpose of paying salary of employees was preparing two different bills. One was shown in the name of the contractor Mr. Ramlal and another bill was prepared by management as per NCWA-II & III for Category I Mazdoor. The salary prepared by NCWA was signed by Manager. However bill pertaining to M.W. Act was in name of Ramlal alleged contractor. The bill was signed by the pay clerk of the management. It is alleged that it was an artificial name which was shown by the management of Shri Ramlal though he was never a contractor. Before sending all such workers to perform underground work, the management had given training to all such workers which is termed as Vocational Training. The certificate of passing such training to each workman were issued by the management. After all such workers completed training, they were sent to underground work by management.

4. That work performed by employees was of perennial nature, the work of tub loading and other work as prescribed under NCWA. Since 1986 till termination of employees in January 1989 continued to pay salary to those employees. That the workman submitted representation dated 1-3-87 claiming salary as per NCWA to Category - I & II General Mazdoor. The management got annoyed and stopped them from working. The matter was represented by those workers to Chief General Manager, Shri P.N. Mathur of Hasdeo Area, SECL. He had directed Sub Area Manager, B. Seem Colliery to allow workers to perform their duty. In consequence to the same, the Sub Area Manager again continued them in service till January 1989. They have completed 240 days continuous service preceding their termination. It is further submitted that all those workers were no paid retrenchment compensation, they were not served with notice or salary in lieu of notice was not paid. Their services are terminated in violation of Section 25-F of I.D. Act. Those persons had worked for more than 190 days in the calendar year and acquired status of regular employees. Instead of regularising services, terminated the services of workman. It amounts to illegal retrenchment. On such grounds, it is prayed that the employees be reinstated with consequential benefits.

5. Management filed Written Statement at Page 5/1 to 5/4. Claim of Union is denied. It is submitted that SECL is a company registered under the Companies Act. The company has various collieries in the State of

Madhya Pradesh. West Jhagrakhand Colliery and B.Seem Colliery are two different collieries in the Jhagrakhand Sub Area of Hasdeo Area. Management has right to engage contract labour for various jobs other than the prohibited categories as notified by the Central Government. Ramlal contractor engaged some workers for carrying the contract work awarded to him on 3-5-86. The workers were never engaged by management of IInd party. There is no employer employee relationship. That names of 3 persons Chhotelal, Naval Singh and Babulal Singh are also appearing in R/235/90 at Sl.No.11, 53 & 5. Therefore claims of those persons are not tenable.

6. That Chhotelal S/o Sonsai has filed affidavit in R/235/90 claiming that he was employed in West Jhagrakhand Colliery from 1984 to 1989. If he was so employed in Jhagrakhand colliery, he cannot claim that he was in employment of B.Seem colliery during the same period. The workers in reference are engaged by contractors. They cannot be members of Union. Union is not entitled to expose their case. All material contentions of Union that persons were working as employee of B-Seem Colliery, West Jhagrakhand Colliery is denied. IInd party prays for rejection of the claim of Union. It is further denied that employees have completed 240 days service preceding their termination, violation of provision of I.D.Act is denied. It is contended that those persons were engaged by contractor, they are not employees of the management of IInd party, therefore those persons are not entitled to any relief.

7. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|--|--|
| “(i) Whether the action of Sub Area Manager, Jhagrakhand employees | Termination of services of |
| Sub Area of SECLtd., Hasdeo Area of SECL in terminating the services of the employees named in the Annexure w.e.f. January 1989 is legal.? | by management of IInd Party is not proved. |
| (ii) If so, to what relief the workman is entitled to?” | Relief prayed Ist Party are rejected. |

REASONS

8. 1st party Union filed affidavit of evidence of Dauli, S/o Chaitu. He has stated that he was initially engaged by West Jhagrakhand Colliery in Coal handling plant during 1983-84. He along with others, name shown in schedule were transferred to B-Seem colliery in 1986. He has stated that the was working underground mine. His work was suspended by Supervisor of management. He was carrying work of loading, drilling, timbering of roof, line work etc. The work is of perennial nature. The workers who were

performing work were given salary of Category II as per NCWA, Sub Area Manager stopped him work. Then the matter was represented to Chief General Manager of Hasdeo Area who directed Sub Area Manager to allow them to perform the duties. That he was continuously working in B-Seem colliery since May, 1986 to Jan.1989. His services were not regularized as per the settlements. His services were terminated w.e.f. Feb. 1989. In his cross-examination workman says he knows Ramlal, he had not employed them. He was co-employee with them. That no appointment letter was given to him. He had received order of transfer but order is not with him. Total 8 persons were working with him. That the document about their working was prepared in the office of IInd party. The charges were shown in the name of Shri Ramlal. The wages were paid through them. Work was extracted from him of rehandling and stacking of stones, bills were prepared by clerk Mr. Mishra. No document was given to him about termination of his services by IInd party. Shri Chhotelal and Naval Singh have filed separate reference. They were Union members. They have accepted membership of other Union. That Ramlal was not educated person. He was putting thumb marks.

9. Identical affidavit of witness Shyam Sundar is filed by Union. In his cross-examination, Shyam Sunder says his age was 39 years. That clerk from office of IInd party was maintaining their attendance. He did not remember his name. Monthly wages were paid to them by the clerk in office. He did not recollect his name. His wage bill was prepared in name of Shri Ramlal and the wages were paid to them Rs. 25 per day. He did not receive any letter about termination of his service. He had not received order of transfer to B-Seem Colliery. He was member of the Union led by Mr. Sharma. He was paying membership fees Rs. 25 per month. Third identical affidavit is filed by Shri Chain Sai. In his cross-examination, said witness has stated that he was appointed in 1986. He had not submitted application to the management. His name was not sponsored through Employment Exchange. He was not interviewed. He had not received appointment letter. He was working in Coal handling plant, underground mines etc. 12 labours were working in underground mine. They had applied for getting appointment letters. Shri Ramlal was paid wages, they have not availed any leave. He worked continuously from 1986 to 1989. Mr. Saini was maintaining the attendance. The evidence of witnesses shows that Mr. Ramlal alleged contractor was illiterate. He was putting thumb impression.

10. The management filed affidavit of witnesses N.P.Saini. He has claimed that Ramlal was engaged as contractor. The work prescribed in Document-2(ii) was for re-handling, stacking of stones. The contractor Ramlal had completed the work within 14 days. Other contention about transfer of employees are denied. Shri S.M.Mukherjee, Ranjit Kumar Das supported claim of management that Ramlal was engaged as contractor for different types of work. The documents are prepared. Applicant was not

doing job of tub repairing, restacking stones. Evidence in cross-examination of Shri Ranjit Kumar Das shows that his office is not in mines campus. That he never goes to mines underground. He couldnot tell the details of the labours working. The list of contractors remains with the Office Superintendent. The bills were submitted to the cash department. He claims ignorance how many labours were working during 1986 to 1989 with contractor Ramlal. If evidence is carefully appreciated, the witnesses of Union have deposed that the wages were paid to Ramlal in presence of the Supervisor/ clerk of the management. The documents about wage bills to the contractor are produced on record by the management. The evidence adduced by the Union is not sufficient to hold that contract was camouflage. The evidence is not cogent that those persons were working under supervision and control of the management of IInd party and alleged so called was contractor. The employee-employer relationship between those persons and management of IInd party is not established. Therefore those persons cannot be said employee of the management of IInd party. The evidence is not cogent that their services are terminated by management of IInd party. 1st party has not produced Form B, attendance register and therefore their claim cannot be accepted. For above reasons, I record my finding on Point No.1 in Affirmative.

11. Point No.2— In view of my finding in Point No.1, 1st party is not entitled to any relief. Accordingly I record my finding in Point No. 2.

12. In the result, award is passed as under:—

1. Management of IInd party has not terminated services of 1st party. Persons shown in Annexure are not employed by IInd Party.
2. Relief prayed for reinstatement is rejected.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 अगस्त, 2013

का०आ० 1962.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एफ सी आई के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 115/1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/08/2013 को प्राप्त हुआ था।

[सं० एल-22012/194/1997-आई आर (सी एम II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 19th August, 2013

S.O. 1962.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 115/

1998) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of FCI and their workmen, received by the Central Government on 19.08.2013

[No.L-22012/194/1997-IR (CM-II)]

B.M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/115/98

PRESIDING OFFICER: SHRI R.B.PATLE

General Secretary,
FCI Workers Union, 7901,
Ramnagar, Nai Basti,
Paharganj, New Delhi.

...Workman/Union

VERSUS

Sr. Regional Manager,
Food Corporation of India,
Regional Office, Jaipur,
Rajasthan

...Management

AWARD

Passed on this 24th day of July, 2013

1. As per letter dated 11-6-1998 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-22012/194/97/IR(CM-II). The dispute under reference relates to:

"Whether the action of the Sr.Regional Manager, Food Corporation of India, Jaipur in not regularizing/ departmentalizing 73 contract labour working at Food Storage Depot, Ranthambhore, Sawaimadhapur at par with Buffer Complex, Sawaimadhapur in implementation of Ministry of Labour, Government of India's Notification No. 509 dated 7-9-90 is fair and just? If not, to what relief the concerned workmen are entitled and from what date?"

2. After receiving reference, notices were issued to the parties. 1st party Union submitted statement of claim at page 2/1 to 2/6. The case of 1st party Union is that it is a registered Union affiliated to INTUC bearing No. 42020. That at its instruction reference is made by the Central Government It is submitted that the Government of India vide Notification No. 509 dated 7-9-90 prohibited employment of contract labours in godowns and depots of FCI in process, operation of work of handling of food grains, including their loading and unloading from any

means, transport, storing etc. at Food Storage Depot, FCI Buffer Complex, Rajasthan. 1st party Union submits that immediately on publication of said notification, the management implemented direction of the Central Govt. The Food Storage Depot Ranthambore, Sawaimadhopur and Buffer Complex at Sawaimadhopur are part and parcel of same complex of the management. The Non-applicant management engaged contractors, same workers were working in both the units without demarcation. It is submitted by 1st party union that 73 contract workers working at Ranthambore, Sawaimadhopur are also entitled to the benefit of Government's Notification dated 7-9-90. They are entitled to departmentalization. The authorities of FCI have not properly interpreted. On such ground, it is prayed that 73 employees be departmentalized/regularized at Ranthambore, Sawaimadhopur.

3. IInd party filed Written Statement at Page 3/1 to 3/12. The claim of 1st party Union is denied. IInd party did not dispute Notification issued by Central Govt. dt. 7-9-90 prohibiting employment of contract Labours in godowns and depots of FCI. IInd party submits that Food Storage Depot of FCI Buffer Complex have been included in the Schedule. That the Food Storage Depot of Sawaimadhopur is not included in the said Notification by Govt. The reference is made mechanically without proper consideration. It is further submitted that FCI is a Government of India Undertaking. It is bound to act in accordance with the directions, instructions and circulars issued from time to time by the Central Govt. It is further submitted that usually FCI appoints handling and transport contractors at various depots. The FCI has not administrative economic control over the contract labours. In para-6 of the Written Statement, the details of the Food Storage Depots and Buffer Complexes of Rajasthan are given. Buffer Complex, Sawaimadhopur is shown at Sl. No. II and Ranthambore, at Sl. No. X. The substance of the pleadings of IInd party is Food Storage Sawaimadhopur is not covered in the Notification issued by the Central Government In para-12, the contractors working at different period are shown. Contract system has been abolished only in specified depots of FCI. In such depot, the contract system is still, prevailing. That on 30-5-95, workers Union in FCI shall notice raising certain demand including abolition of contract system in remaining depots. While serving such notice, the Union informed the management if the matter is not sorted out by 14-6-85, the worker will start hunger strike.

4. The Union agreed that question of work load for abolition of the contract labour in Food Corporation of India depot on the whole and recommending norms for the same shall be referred to the Central Advisory Contract Labour Board. Contract labours are still continuing at Food Storage Depot Ranthambore. As Government has not issued notification prohibiting contract labour in contract labour system in Food Storage Depot, Ranthambore, the IInd party

submits that demand of Union is not acceptable. IInd party prays for rejection of claim of workman.

5. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

“(i) Whether the action of the Sr.Regional Manager, Food Corporation of India, Jaipur in not regularizing/ departmentalizing 73 contract labour working at Food Storage Depot, Ranthambore, Sawaimadhopur at par with Buffer Complex, sawaimadhopur in implementation of Ministry of Labour, Government of India's Notification No. 509 dated 7-9-90 is legal?”	In Affirmative
---	----------------

“(ii) If so, to what relief the workman is entitled to?”	Relief prayed by workman is rejected.
--	---------------------------------------

REASONS

6. The substance of pleadings of Union is that they are claiming departmentalization/regularization of contract labour at Food Storage Depot, Ranthambore, Sawaimadhopur as per Notification issued by Central Govt. dated 7-9-90. The witness of 1st party Pramod Kumar Nayak filed affidavit of his evidence covering most of the contentions of the Union. That the Food Storage Depot of FCI at Ranthambore, is covered in said Notification. That Sawaimadhopur contract labours were not departmentalized/regularized. The contractors are still continued to work. That both the Food Storage Depot as well as the Buffer Complex at Sawaimadhopur are functionally and operationally been inseparable. To have a correct interpretation the head line as well as entry at page 2 should be read together and this leads to the clear conclusion that the depot at Ranthambore, Sawaimadhopur as well as the Buffer Complex are to be departmentalized as per the agreement. In his cross-examination, witness of 1st party says that Government of India has power to issue Notification whether contract labour should continue or not. The department itself decides as per the agreement. The Buffer Complex units at Sawaimadhopur. The Food Storage Depot is at about a distance of 5-7 kms at Ranthambore. He was unable to tell whether the storage capacity at Buffer Storage complex, Sawaimadhopur is 80,000 MT. The witness of 1st party admitted that storage capacity at Ranthambore is 11,220 MT. The Notification Exhibit M-1 is not stating that contract labours should be prohibited and the contract labour should be

departmentalized, such details are used to be mentioned in the agreements. He has stated about the different names included in the Notification issued by Central Govt. Ranthambore is not mentioned in said Notification. Witness submits that it comes under Sawaimadhopur. In para-23 of his evidence, the witness says that there are separate Manager at Sawaimadhopur Complex and Ranthambore Depot. That he has not seen any document whether who is Controlling Authority at Sawaimadhopur and Food Storage Depots, Buffer Complex.

7. The evidence of management's witness Shri J. C. Meena is devoted on the point that the Food Storage Depot at Ranthambore is not covered in Notification dated 7-9-90 issued by the Central Government. In his cross-examination, the management's witness has stated about different depots at Jhalawar, Bhawani Mandi, Bundi, Keshav Rai, Buffer Complex etc. From cross-examination of the witness of the IInd party, though nothing is illicit that Food Storage Depot at Ranthambore is included in Notification issued by Central Govt. The Notification is produced at Exhibit M-2. Its annexure for Rajasthan finds Sawaimadhopur (Buffer Complex). Its clear reading shows that Notification is restricted to Buffer Complex, Sawaimadhopur. The evidence that Food Storage Depot Ranthambore is included in Sawaimadhopur cannot be accepted. It if would have been the case that Buffer Complex, Sawaimadhopur as well as Food Storage Depot at Ranthambore included in notification, there would have been a comma, between Sawaimadhopur and Buffer Complex but it is seen that Buffer Complex is bracketed. Thus Sawaimadhopur and Buffer Complex are not used separately. For above reasons, the claim of 1st party Union cannot be accepted. The action of the management of FCI cannot be said illegal. Therefore I record my finding in Point No. 1 in Affirmative. In view of my finding in Point No.1, the Union is not entitled for reliefs of regularization of 73 contract labours. Accordingly I record my finding in Point No. 2.

8. In the result, award is passed as under:-

- (1) The action of the Sr. Regional Manager, Food Corporation of India, Jaipur in not regularizing/ departmentalizing 73 contract labour working at Food Storage Depot, Ranthambhore, Sawaimadhopur at par with Buffer Complex, Sawaimadhopur in implementation of Ministry of Labour, Government of India's Notification No. 509 dated 7-9-90 is legal.
- (2) Relief prayed by workman is rejected.

R. B. PATLE, Presiding Officer

नई दिल्ली, 19 अगस्त, 2013

का०आ० 1963.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एफ सी

आई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय जबलपुर के पंचाट (संदर्भ संख्या 216/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/08/2013 को प्राप्त हुआ था।

[सं० एल-22012/295/1998-आईआर(सीएम-II)]
बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 19th August, 2013

S.O. 1963.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 216/1999) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of FCI and their workmen, received by the Central Government on 19/08/2013.

[No. L-22012/295/1998-IR (CM-II)]
B.M. PATNAIK, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/216/1999

PRESIDING OFFICER: SHRI R.B. PATLE

Shri Rajkumar,
S/o Shri Rajratnam,
C/o N.S. Korri, Kappa Ladhi Para,
PO Kopa, Raipur (MP) ...Workman

VERSUS

Distt. Manager,
Food Corporation of India,
Distt. Office Raipur (MP) ...Management

AWARD

Passed on this 22nd day of July 2013

1. As per letter dated 23-5-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I.D. Act, 1947 as per Notification No. L-22012/295/98-IR(CM-ID). The dispute under reference relates to:

"Whether the action of the management of Distt. Manager, FCI, Raipur in dismissing Shri Raj Kumar S/o Rajnartan Ex-Watchman from service vide order No. V&S/4/RK/WM/86 dated 31-3-86 is justified? If not, to what relief is the workman entitled?"

2. After receiving reference, notices were issued to the parties. 1st party workman filed statement of claim at Page 2/1 to 2/6. The case of 1st party workman is that he was appointed as watchman against permanent post in

1976 at FCI, Distt. Kapa, Raipur. He was served with showcause notice dated 21-1-82 why disciplinary action should not be taken against him. Chargesheet was issued against Regulation 60 of the Food Corporation of India Staff Regulation 1971. The delinquent workman submitted reply denying the charges totally. That he had not committed theft neither there was motive for committing theft or causing loss to the FCI. Further pleadings is devoted about enquiry was conducted against delinquent, he was permitted to cross-examine the witness. As enquiry held against delinquent is found legal, the pleadings are not given in detail. That order of punishment of dismissal was passed on 31-3-1986. The delinquent had challenged the said order of dismissal filing appeal. His appeal was rejected without giving reasons. 1st party workman further submits that the Appellate Authority rejected appeal without applying his mind whether the punishment is excessive or disproportionate to the gravity of the misconduct. 1st party submits that enquiry was vitiated on different parts. That witnesses of the Corporation were not free, they were under pressure. That he was dismissed from service for theft of wheat whereas the charge against him was about theft of rice. The FIR was lodged against him. He was prosecuted before Addnl. CGM, Raipur in criminal case for offence under Section 380/34 of I.P.C. He was acquitted on 6-1-92, the prosecution failed to establish the case against him.

3. 1st party further submits that order of dismissal filed by Disciplinary Authority is legal. The workman has referred to ratio in various cases as he is acquitted on the same set of facts and charge. The order of punishment of dismissal is illegal. The punishment is imposed by way of victimization. On such ground, workman prays for his reinstatement with full back wages.

4. IInd party filed Written Statement at Page 6/1 to 6/9. Workman did not dispute his appointment in 1976 but not on permanent post. Issue of chargesheet conducting enquiry is not disputed by the IInd party. That first chargesheet was issued under Regulation 60 subsequently amended chargesheet was issued on 19-5-82 under Regulation 58 of FCI Staff Regulation 1971. The charges against workman were unlawfully entering in FCI premises Kapa on 17-4-82, IInd physically assaulting the duty watchman and further insulting other fellow watchman who tried to prevent the physical assault and theft of rice. The charges were denied. Enquiry officer was appointed, during enquiry, witnesses of department were cross-examined. Appeal filed by delinquent employee was rejected on merit.

5. The contentions of workman of disproportionate punishment are denied. It is submitted that considering merits and findings of Enquiry Officer, gravity of allegation, punishment of dismissal was imposed. It is reiterated that the delinquent workman was given opportunity to cross-examine the witnesses. The enquiry was conducted

following rules and regulations. It is denied that the punishment of dismissal was imposed by way of victimization. The prosecution witnesses were free from any kind of pressure, they were paid DA. It was typographical error in order of punishment inspite of rice, it is typed as whet, a corrigendum was issued on 3-3-98, it was acknowledged by the delinquent. All other contentions of 1st party are denied. It is denied that delinquent workman had not committed any misconduct. IInd party prayed for rejection of relief prayed by workman.

6. 1st party filed rejoinder at page 8/1 to 8/2 denying all adverse contentions of management of IInd party. He has reiterated his earlier contentions and prays for his reinstatement. Enquiry is found legal as per order dated 5-3-2013. The remaining issues framed on 24-10-07—whether the management is entitled to prove misconduct of workman has become redundant as the enquiry conducted against workman is found legal. The evidence in Enquiry Proceedings requires to be examined therefore appropriate issue is as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|-----------------|
| (i) Whether the alleged misconduct against workman is proved from evidence in Enquiry Proceedings or findings of Enquiry Officer are perverse? | In Affirmative |
| (ii) Whether punishment of dismissal of workman is proper and legal? | In Affirmative |
| (iii) If so, to what relief the workman is entitled to?" | Relief rejected |

REASONS

7. As stated above, enquiry held against workman is found legal. As per order dated 5-3-2013. The next question is whether the finding of Enquiry Officer are supported by evidence or findings are perverse. The evidence of witnesses Shri Sukhlal Verma Head Constable, Shyam Lal Constable No. 321, Dadani Shukla Constable No. 748, Suresh Anand Constable No. 289, Shivkaran Singh Constable No. 389 is recorded in Enquiry Proceedings. Those witnesses of the management have stated that on 12-1-1982, they were on night duty. When they reached near MSD godown, No. 71, they heard a noise from the godown, witness Sukhlal says they saw a man in white clothes in darkness, when they reached near the person about 10 yards, they flashed torch light and asked who were there. On question, they had seen two more persons by side of godown, one Rajkumar, second Shri Chotu Ram and Raju. On enquiry, Shri Rajkumar told him that one is his brother and other is his brother-in-law. There were two bicycles in front of gate laden with one cutta each of Rice weighing above 50 Kgs each. He took all three persons along with cycle to their camp and he informed Branch Manager and called him to

the camp. Branch Manager along with Section officer reached at camp. He deposited the rice stock and cycle with Manager and obtained receipt. The evidence of those witnesses is consistent that two cutta basmati rice was found on the bicycles. The delinquent employee and 2 other persons were found with them. Their evidence is not shattered in his cross-examination. Witness No.1 Sukhlal Verma in his cross-examination says that his duty was from 6 to 12 P.M. The entire stocks within the boundary were in his charge. Wherever necessary, they are free to move. Witness No. 2 Shyamlal Singh in his cross-examination says that he did not remember the number of the godown. On his enquiry, Rajkumar himself told his name and he was watchman of FCI. That he had seen rice in front of godown. The cross-examination of further witnesses did not bring anything to disbelieve in the evidence. The charges against delinquent are proved from evidence of those witness of the management.

8. At the time of argument, learned counsel for workman Mr. Sharma heavily argued that the charge was for theft of rice and order of punishment was issued for theft of wheat. Above argument cannot be accepted in view that corrigendum was issued in the year 1988 in punishment order was corrected rice for wheat. There is no satisfactory evidence in that regard. When chargesheet was issued for theft of rice and evidence was also recorded about rice, the use of word Wheat in he punishment order may be typographical error as pleaded by IInd party. The evidence is Enquiry Proceeding is sufficient to prove misconduct alleged against the delinquent workman. The findings of enquiry Officer cannot be said perverse. For above reasons, I record my finding in Point No.1 in Affirmative.

9. Point No. 2- whether punishment of dismissal of workman is disproportionate. The learned counsel for 1st party workman Shri Sharma during course of argument referred that chargesheet was initially issued against Regulation 60 of chargesheet for minor punishment. However the amended chargesheet was issued in 1982 under Regulation 58 was not in dispute during enquiry proceedings. On the point of disproportionate punishment, learned counsel for 1st party Sharma relies on ratio held in

"Case of Bhagat Ram Versus State of Himachal Pradesh and others reported in 1983(2) Supreme Court cases 442. Their Lordship held punishment must be proportionate to the gravity of misconduct, dismissal on a trivial charge of negligence which resulted in no loss to the department held disproportionate and excessive."

In above cited case, the appellant was a Forest guard, the charges were of causing loss of Government, negligence in Govt. duty, doubtful honesty. In enquiry, it was found that out of the 21 trees, 17 were in forest land and 4 were in the private land of "k". "k" paid compensation for the illegal felling of trees stating that he felled the trees

bonafide believing that the trees were standing on his private land.

The facts of the present case are not comparable with the case at hand. In the present case, all management witnesses found delinquent and his brother, brother-in-law in the dark. The 2 cuttas of Basmati were laid on bicycle. The incident was reported following by chargesheet and the domestic enquiry was conducted. The charges are proved. The delinquent workman was the security guard in godown of IInd party. Committing theft by security guard who were on duty to guard the godown of FCI is a very serious misconduct. The misconduct cannot be said negligence in duty. Therefore the ratio in above cited case cannot be applied to case at hand.

Next reliance is placed by counsel for 1st party Mr. Shashi on ratio held in

"Case of Shri B.C. Chaturvedi versus Union of India reported in 1995 (5)-SLR 1178. Ratio held by the Lordship is judicial review is not an appeal from a decision but a review of the manner in which the decision is made. In para-13 of the judgment, their Lordship observed that the Disciplinary Authority is the sole judge of facts. Where appeal is presented, the appellate authority has no extensive power to re-appreciate the evidence or the nature of punishment. In a disciplinary enquiry, the strict proof of legal evidence and finding on that evidence are not relevant. Adequacy of evidence or reliability of evidence cannot be permitted to be canvassed before the Court/Tribunal."

The ratio held in the case does not support the case of 1st party workman. In view of evidence of all the 5 witnesses of the department is consistent that the delinquent workman, his brother and brother-in-law were found with 2 cuttas of wheat laid on bicycle. The evidence of the witnesses of the management does not call for re-appreciation.

"Next reliance is placed in case of Shri Shankar Dass Versus union of India and another reported in 1985(2) Supreme Court Cases 358. Their Lordship held the power under Article 311(2) second proviso (a) like every other power, has to be exercised fairly, justly and reasonably. Government should apply its mind to the penalty which could appropriately be imposed in so far as the service career of the delinquent employee is concerned. However he may not be entitled to be heard on the question of penalty in view of clause (a) of the second proviso which makes Article 311(2) inapplicable."

In above cited case, the workman was convicted but extended benefit of Probation of Offenders Act, 1958. While extending such benefit, the magistrate had observed that the workman was victim of adverse circumstances, his son died in, 1962, which was followed by another misfortune,

his wife fell down from an upper storey and was seriously injured, it was then the turn of his daughter who fell seriously ill and that illness lasted for eight months. The learned Magistrate concluded his judgment as- Misfortune dogged the accused for about a year and it seems that it was under the force of adverse circumstances that he held back the money in question."

The fact of present case are not comparable. 1st party workman was acquitted by criminal court on 30-1-92 as the prosecution failed to produce the witnesses. However in Departmental Enquiry, statements of 5 witnesses were recorded. Therefore the ratio held in the case cannot be applied to the present case at hand. When theft of rice is committed by delinquent workman along with his relatives in godown where he was in duty as watchman, the punishment of dismissal may be not be said disproportionate. For above reasons, I record my finding in Point No. 2 in Affirmative.

10. In the result, award is passed as under:-

- (1) Action of the management of Distt. Manager, FCI, Raipur in dismissing Shri Raj Kumar S/o Rajnartan Ex-Watchman from service vide order No. V&S/4/RK/WM/86 dated 31-3-86 is legal.
- (2) Relief prayed by workman is rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 19 अगस्त, 2013

का०आ० 1964.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एन एल सी के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 76/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 1/08/2013 को प्राप्त हुआ था।

[सं० एल-22012/41/2013-आई आर (सीएम-II)]

बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 19th August, 2013

S.O. 1964.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 76/2013) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Chennai as shown in the Annexure, in the industrial dispute between the management of NLC Registered Contractor, GP Nagar, and their workmen, received by the Central Government on 19/08/2013.

[No. L-22012/41/2013-IR(CM-II)]

B. M. PATNAIK, Desk Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
CHENNAI**

Monday, the 1st August, 2013

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 76/2013

[In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), between the Management of M/s. Thirumurugan Enterprises, Contractor and M/s. Neyveli Lignite Corpn. Ltd. And their workman]

BETWEEN

Sri S. Ulaganadhan : Petitioner/1st Party

AND

1. M/s. Thirumurugan Enterprises : Respondent/1st Party
NLC Registered Contractor
GP Nagar, Periyakurichi
Neyveli-607802
2. The Chief General Manager : Respondent/2nd Party
Neyveli Lignite Corporation Ltd.
Mine-II, Neyveli-607802

Appearance

For the 1st Party/Petitioner : M/s. V. Padmini, D.
Lakshmipty,
Advocates

For the 1st & 2nd Party/
Management : None

ORDER

The Central Government, Ministry of Labour & Employment vide its Order No. L-22012/41/2013IR (CM-II) dated 30.05.2013 referred the Industrial Dispute between the above referred parties for adjudication.

The schedule mentioned in that order is :

"Whether the action of the management of M/s. Thirumurugan Enterprises, Contractor of NLC Limited denying employment to Sri S. Ulaganadhan in the same place (SMD Department Mines-II) is legal and justified? If not, to what relief the workman is entitled to?"

2. After the receipt of Industrial Dispute, this Tribunal has numbered it as ID 76/2013.

3. When the case came up for hearing on this date it was brought to my notice that the issue to be decided in ID 52/2013 directly filed by the petitioner and pending before this Tribunal is the same as in this case. The counsel for the petitioner has filed a memo stating that the petitioner is intending to proceed with ID 52/2013 filed directly by him only and that this ID can be closed.

4. I have perused the file of this case and also the file of 52/2013 which also came up for hearing on this date. I find that the issue to be decided in both is one and the same. So there is no hindrance in closing this ID.

5. Accordingly, the present reference is struck off from the file of this Tribunal with eventual consignment of the records to the preserving section and it is so ordered.

6. A copy of this order will be incorporated in ID 52/2013. A copy of this order will also be forwarded to the Ministry of Labour and Employment for favour of information.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 1st August, 2013)

K.P. PRASANNA KUMARI, Presiding Officer

नई दिल्ली, 19 अगस्त, 2013

का०आ 1965.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स एम सी एल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय भुवनेश्वर के पंचाट (संदर्भ संख्या 11/2004) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/08/2013 को प्राप्त हुआ था।

[सं० एल-22012/122/2003-आई आर (सीएम-II)]
बी० एम० पटनायक, डेस्क अधिकारी

New Delhi, the 19th August, 2013

S.O. 1965.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 11/2004 of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the management of Orient Area, Mahanadi Coalfields Limited, and their workmen, received by the Central Government on 19/08/2013.

[No. L-22012/122/2003-IR(CM-II)]
B.M. PATNAIK, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, BHUBANESWAR

Present: SHRI J. SRIVASTAVA, Presiding Officer,

C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 11/2004

Date of Passing Award — 30th May, 2013

Between:

The General Manager,
Orient Area, Mahanadi Coalfields Limited,
At./Po. Brajarajnagar, Dist. Jharsuguda.
Orissa — 768 216. ...1st Party-Management.

AND

Their workman represented through the
General Secretary, Brajarajnagar Coal Mines
Workers Union, PO. Orient Colliery, Via. Brajarajnagar,
Dist. Jharsuguda, Orissa. ...2nd Party-Union.

Appearances:

Shri J.K. Mishra,	—	For the 1st Party-
Authorized		Management.
Representative		
Shri D. Mohanta,	—	For the 2nd Party-
Vice President.		Union.

AWARD

The Government of India in the Ministry of Labour has referred an industrial dispute existing between the employers in relation to the management of Orient Area, Mahanadi Coalfields Limited and their workman in exercise of the powers conferred by clause (d) of sub-section (1) of sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 vide its letter No. L-22012/122/2003-IR (CM-II) dated 23.02.2004.

2. The matter in dispute is given under the schedule of the letter of reference which reads as follows:-

"Whether the action of the management of Orient Area, Mahanadi Coalfields Ltd., PO. Brajarajnagar, Dist. Jharsuguda in dismissing Shri Jai Chan, S/o. Sh. Dharmu, Piece Rated Loader from services w.e.f. 4.8.2001 is legal and justified? If not, to what relief he is entitled to?"

3. The 2nd Party-Union persuading the cause of the disputant workman has filed statement of claim with the allegations that the disputant workman is the dependant son of the ex-employee Shri Dharmu of Mahanadi Coalfields Limited. He was given employment in the post of Piece Rated Loader and was posted at Hingir Rampur Colliery vide appointment letter dated 22.3.1995. He was transferred to M.R.S., Orient Area in 1997 where he was charge-sheeted by the 1st Party-Management on 11.4.1997 alleging that he had given false declaration claiming himself to be the son of Shri Dharmu, ex-employee of MCL and was asked to submit his explanation within three days. The disputant workman submitted his reply on 18.4.1997 and 21.4.1997 denying the charges. Thereafter the 1st Party Management ordered for initiation of disciplinary proceedings and the Deputy Chief Personnel Manager, MCL Orient Area, Brajarajnagar was appointed as enquiry officer. The fact is that the disputant workman is the adopted

son of Shri Dharmu and a valid adoption was made in the year 1984. Dharmu has a brother named Deo Ram, who has a son named as Jai Chand Ram. Dharmu had retired from service after being declared medically unfit. During his service period Dharmu had availed of LTC wherein the name of the disputant workman was included as his son along with other family members. The disputant workman had submitted all the relevant documents and affidavit at the time of appointment which were duly verified and the appointment was given. Shri Deo Ram, the brother of Dharmu had been pursuing Dharmu for giving employment to his son Jai Chand Ram in M.C.L., but Dharmu had not agreed to it. Deo Ram and his son Jai Chand Ram being annoyed lodged complaint with M.C.L and got the tailor made police report to harass him. The disciplinary proceedings were conducted in a most cavalier manner without following the procedure of law and without giving adequate opportunity to the delinquent employee. The documents submitted by the disputant workman were not taken into consideration by the enquiry officer. The original complainant was not examined in the enquiry although request was made for the same. He was not allowed to reply on the vital documents. The documents required to be produced were never produced on the repeated requests of the disputant workman. The subsequent report submitted by the In-charge of Mordha Police Station addressed to the Superintendent of Police was not taken into consideration by the enquiry officer which was in contradiction of the earlier report. The enquiry officer placed much reliance on the statements of the prosecution witnesses which stand at complete variance. Some important documents were not considered during enquiry. The enquiry was completed before the receipt of re-verification report from the Collector, Ghazipur. Copy of the enquiry report was not supplied to the disputant workman. Enquiry was completed without giving a fair opportunity to the disputant workman to put his submissions. Thus it is clear that the enquiry was not conducted in a fair and proper manner. It has therefore been prayed to declare the enquiry as illegal and findings as improper holding the dismissal of the workman from service as illegal and bad in law and to order reinstatement with full back wages and other service benefits.

4. The 1st Party-Management has filed written statement and alleged that the disputant workman had submitted fraudulent documents stating himself to be the natural son of Sri Dharmu. He was charge-sheeted and called upon to submit his explanation. Explanation being not satisfactory, enquiry was ordered and an enquiry officer was appointed. The disputant workman participated in the said enquiry. He submitted his written submission on 27.3.1998 after completion of enquiry. The enquiry officer after due scrutiny of the evidence and documents submitted his report on 27.4.1998 and a copy was served on the disputant workman on 26.5.1998. The disputant workman

thereafter submitted his explanation with the request to revoke the charges against him. It is to be mentioned that he had shown himself as natural son of ex-employee of MCL Shri Dharmu, in his application dated 16.12.1995. In the appointment letter it was clearly mentioned that if at any time the documents/declaration made by the disputant workman is found to be incorrect or fraudulent his services will be terminated immediately and other action as deemed fit will be initiated against him. The documents/declaration submitted by the disputant workman were sent to the District Collector, Ghazipur, Uttar Pradesh for verification who reported police report that there is no, such person in the name of the disputant workman in the village Bastpur (Mustafabad) in Ghazipur District. The disputant workman in his explanation dated 21.4.1997 has stated himself to be the natural son of Shri Dharmu, but his further explanation dated 18.4.1997 states that he is the original son of Dharmu. The disputant workman has also filed a notarized deed of adoption dated 2.2.1998 wherein it has been shown that the disputant workman was adopted by said Dharmu in the year 1984 and a deed was executed in non-judicial stamp paper dated 21.9.1984. On the date of alleged adoption the disputant workman was of 7 years of age while he declared himself of 26 years of age as on 16.12.1995. Thus it is seen that the disputant workman is not the son of Shri Dharmu, ex-employee of MCL and he had adopted fraudulent method for entering into service. The disputant workman with his co-worker took part in the enquiry and was given ample opportunity to cross examine the Management witnesses and adduce evidence of his own witnesses and submit documents which were taken into consideration by the enquiry officer. The conduct of the disputant workman always remained doubtful. The enquiry was conducted in a fair and proper manner. The disputant workman had approached the Hon'ble High Court in O.J.C. No. 9147/98 challenging the legality of the disciplinary proceedings which was dismissed as premature. All other contentions raised by the disputant workman are false and denied.

5. On the pleadings of the parties my learned predecessor has settled the following issues:-

ISSUES

1. Whether the domestic enquiry held against the workman was fairly conducted and if so whether the punishment of dismissing the workman from service was just, proper and proportionate to the charges?
2. If not, to what relief the workman is entitled to?
6. The 2nd Party-Union has examined Shri Dharmu as W.W.-1 and Shri Jai Chand as W.W.-2 and filed several documents in the shape of xerox copies, but none of those

documents has been proved and exhibited in evidence of either of the two witnesses.

7. The 1st Party-Management has examined Shri Sarat Chandra Panda and relied on documents marked as Ext.-1 to Ext.-10.

FINDINGS

ISSUE NO. 1

8. The 2nd Party-Union has taken various grounds to hold that the domestic enquiry held against the workman was not fairly and properly conducted. First of all it has been alleged that the disciplinary proceedings were conducted in a most cavalier manner without following the procedure of law and without giving adequate opportunity to the delinquent employee to defend. But on going through the whole proceedings of the enquiry, marked as Ext.-4 it becomes quite clear that on each and every date when enquiry proceedings were held the disputant workman and his co-worker were present and took part in the proceedings. Whenever the delinquent employee or his co-workman was absent the enquiry proceedings were not held and the same were adjourned to another date for which due notice was given to them. The delinquent employee and his co-workman were given proper opportunity to cross examine the management witnesses and the cross examination was done. The delinquent employee and his co-workman were also given opportunity to adduce their evidence in defence. Their documents were also taken on record and considered by the enquiry officer. It is wrong to say that the enquiry officer did not consider some important documents during enquiry and necessary documents were not produced even on the repeated request of the disputant workman. The enquiry report which is part of enquiry proceeding reveals that the enquiry officer has taken into consideration all the oral and documentary evidence of both sides and gave categorical findings on the charges framed against the delinquent employee and found the charges as proved beyond doubt.

9. The enquiry officer was himself examined as Management Witness No. 1 by the 1st Party-Management. He has stated in his evidence that on each date of hearing the workman used to attend the enquiry along with his co-workman. He was also given sufficient opportunity to cross examine the witnesses of the Management. The delinquent employee also got himself examined besides four witnesses. The other allegation like that the Enquiry Officer placed much reliance on the statements of the prosecution witnesses which stand at complete variance and the delinquent employee was not allowed to reply on the vital documents stand disproved and baseless. Copy of enquiry report was served on the disputant employee to which he also filed reply. In these circumstances it cannot be taken as true that the domestic enquiry was held in a most cavalier manner without following the procedure of law and without

giving adequate opportunity to the delinquent employee to defend. Therefore a reasonable conclusion can be derived that the enquiry held against the workman was fairly conducted and adequate opportunity was given to him to defend.

10. The punishment awarded to the delinquent employee of dismissal from service has been stated to be excessive and disproportionate to the charges by the 2nd Party-Union. But the contention of the 1st Party-Management is that in the appointment letter itself issued to the disputant workman, copy of which has been filed as Ext.-1 by the 1st Management, it has been mentioned that in-case the documents/declaration made by the disputant workman is found at any time to be incorrect/fraud, his services will be terminated immediately and other action will be initiated against him as may be deemed fit. The charge-sheet given to the delinquent employee/disputant workman clearly states that he has given false declaration claiming himself to be the son of Shri Dharmu whereas his actual name is Jayachan son of Deo Ram of village Mustafabad, Dist. Ghazipur, U.P., but not the son of Dharmu, ex-cutter of Orient Mine No. 3. Under clause 26.9 of Standing Order it constitutes serious misconduct. Clause 26.9 says that giving false information regarding one's name, age, father's name, qualification etc. in connection with his employment is an act of misconduct. Therefore punishment of dismissal from service awarded to the disputant workman cannot be said to be excessive and disproportionate to the charges levelled against him. The 2nd Party-Union has not been able to establish that the declaration given by the disputant workman was not false and fraudulent. His statement regarding his name, age, parentage and address at various stages was not cohesive and in tune with the declaration given at the time of his appointment to the Management. No reliable and unflinching evidence could be produced by the disputant workman regarding his valid adoption by Shri Dharmu, ex-employee of the 1st Party-Management. Hence the punishment awarded to the delinquent employee/disputant workman was just and proper and cannot be held to be excessive or disproportionate to the charges levelled against him. This issue is accordingly decided in favour of the 1st Party-Management and against the 2nd Party-Union.

ISSUE NO. 2

11. In view of what has been stated and found in Issue No. 1 the disputant workman is not entitled to any relief whatsoever claimed. Here it may be mentioned that the disputant workman was examined on behalf of the 2nd Party-Union as W.W.-2, but his cross examination by the 1st Party-Management could not be completed due to his death as is revealed from the petition moved on behalf of the 2nd Party-Union on 21.10.2010.

Therefore the relief of reinstatement in service claimed by the 2nd Party-Union in its statement of claim

has itself become infructuous and cannot be granted.
Therefore the whole claim is denied.

12. The reference is answered accordingly.

Dictated & Corrected by me.

JITENDRA SRIVASTAVA, Presiding Officer

नई दिल्ली, 19 अगस्त, 2013

का.आ. 1966.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार सीसीएल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 230 of 2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19/08/2013 को प्राप्त हुआ था।

[सं. एल-20012/406/2001-आईआर (सीएम-1)]

एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 19th August, 2013

S.O. 1966.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award Ref. 230/2001 of the Cent. Govt. Indus. Tribunal-cum-labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. CCL and their workmen, received by the Central Government on 19/08/2013.

[No. L-20012/406/2001-IR (CM-I)]

M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 1), DHANBAD

IN THE MATTER OF A REFERENCE U/S 10(1)(D)(2A) OF I.D. ACT, 1947

Ref. No. 230 of 2001

Employers in relation to the management of Jarangdih Colliery of M/s. C.C.L.

AND

Their workmen

Present:— SRI RANJAN KUMAR SARAN,
Presiding officer

Appearances:

For the Employers	:	Shri D.K. Verma, Advocate
For the workman	:	Shri K. Chakraborty, Advocate
State:— Jharkhand		Industry : Coal Dated 26.07.2013

AWARD

By Order No. L-20012/406/2001-IR-(C-I), dated 23/10/2001, the Central Government in the Ministry of labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal.

SCHEDULE

"Whether the action of the management of R.R. Shop Jarangdih M/s. C.C. Ltd., P.O. Jarangdih, Distt. Bokaro in terminating the service of Shri Chaman Kumarm Cook is legal and justified? If not, to what relief is the workman concerned entitled?"

2. The case is received from the Ministry of Labour on 06.11.2001. After notice, both parties appeared. The Sponsoring Union/workman files their written statement on 12.08.2002. Thereafter rejoinder and documents of workman and Management filed. Heard both sides and persued enquiry report and, this Tribunal held the domestic enquiry fair and proper.

3. The allegations against the workman is that, he was a cook and he has hands in committing theft alongwith others for which charge sheet placed, charges were proved and the workman was dismissed. On carefull scrutiny of record it is found, no report was submitted against the workman to the police. No stolen properties recovered from the possessions of the workman.

4. Therefore awarding major penalty like dismissal is not warranted. This Tribunal opines that the workman be given appointment in the similar post, the type of post he was holding where he has less scope to commit theft or pilferage. The workman is also cautioned.

5. Considering the facts and circumstances of this case, I hold that the action of the management of R.R. Shop Jarangdih M/s. C.C. Ltd., P.O. Jarangdih, Dist Bokaro in terminating the service of Shri Chaman Kumarm Cook is not legal and justified, Hence he be reinstated by the management but he be not given any backwages, His service continuity will continue without back wages.

This is my award

R.K. SARAN, Presiding Officer

नई दिल्ली, 19 अगस्त, 2013

का.आ. 1967.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी०सी०सी०एल० के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, धनबाद के पंचाट (संदर्भ संख्या 33

का 2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 19.08. 2013 को प्राप्त हुआ था।

[सं एल-20012/141/2005-आईआर (सीएम-1)]
एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 19th August, 2013

S.O. 1967.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No.33/2006) of the Cent. Govt. Indus. Tribunal-cum-labour Court No. 1, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 19/08/2013.

[No. L-20012/141/2005-IR (CM-I)]
M.K. SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 1), DHANBAD
IN THE MATTER OF A REFERENCE U/S 10(1)(D)(2A)
OF I.D. ACT, 1947
Ref. No. 33 of 2006**

Employers in relation to the management of HQ Koyla Bhawan (GM. NEE) of M/s. BCCL.

AND

Their workmen.

Present : SHRI RANJAN KUMAR SARAN, Presiding Officer

Appearances :

For the Employers : Sri D.K. Verma, Advocate
For the workman : Shri D. Mukherjee, Rep.
State : Jharkhand
Industry : Coal

Dated 25.07.2013

AWARD

By Order No. L-20012/141/2005-IR (C-I), dated 12.01.2006, the Central Government in the Ministry of Labour has, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947, referred the following disputes for adjudication to this Tribunal:

SCHEDULE

"Whether the action of the management of M/s. BCCL HQ Koyla Bhawan G.M. (Nee) in not granting/paying leave wages for 62 days to the Concerned workman Sri A.K. Roy, Ex-Console Operator, EDP Deptt. is

justified? If not, to what relief is the concerned workman entitled?"

2. The case is received from the Ministry of Labour on 13.02.2006. After receipt of reference, both parties are noticed, the Sponsoring Union/workman files their written statement on 28.03.2006. The management files their written statement-cum-rejoinder on 19.02.2009. And thereafter the Sponsoring Union files their rejoinder & document and examined one workman.

3. On behalf of the management, one manager has been examined, Short point to be decided in the case is, whether the workman will be entitled to earned leave of 62 days at the time of his retirement.

4. The workman submitted that though he applied for earned leave the leave was not granted as there was shortage of staff, and he was recommended for getting earned leave. But the leave wage was refused. But the manager examined on behalf of the management (MW-1) submitted, that the leave application of the workman was not rejected similarly placed, workman got earned leave. The present workman was not allowed to go to leave. Therefore he will be entitled to leave encashment for 62 days.

5. Considering the facts and circumstance of this case, I hold that the action of the management of M/s. BCCL HQ Koyla Bhawan G.M. (NEE) is not granting/paying leave wages for 62 days to the Concerned workman Sri A.K. Roy, Ex-Console Operator, EDP Deptt. is not justified. Hence he will be entitled to leave encashment for 62 days.

6. The reference is answered in favour of the workman.

This is my award.

R.K. SARAN, Presiding Officer

नई दिल्ली, 20 अगस्त, 2013

का०आ० 1968.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार होशंगाबाद क्षेत्रीय ग्रामीण बैंक प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट संदर्भ संख्या 251/97 को प्रकाशित करती है, जो केन्द्रीय सरकार को 02/08/2013 को प्राप्त हुआ था।

[सं एल-12012/197/96-आईआर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 20th August, 2013

S.O. 1968.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 251/97) of

the Cent. Govt. Indus. Tribunal-cum-labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Hoshangabad Kshetriya Gramin Bank and their workmen, received by the Central Government on 02/08/2013.

[No. L-12012/197/96-IR (B-I)]
SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/251/97

PRESIDING OFFICER: SHRIR.B. PATLE

Shri Surendra Kumar Jain,
S/o Shri S.L. Jain,
Through Shri K.C. Jain,
Shanighara Ward,
Jain Mandir Road,
Hoshangabad (MP) Workman

VERSUS

Branch Manager,
Hoshangabad Kshetriya Gramin Bank,
Piparia, Distt. Hoshangabad Management

AWARD

Passed on this 11th day of June, 2013

As per letter dated 5.9.97 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of ID Act, 1947 as per Notification No. L-12012/197/96-IR(B). The dispute under reference relates to:

"Whether the termination of Shri Surendra Kumar Jain, S/o Shri S.L. Jain, Hoshangabad working as clerk in Regional Rural Bank from 3.7.86 to 28.6.89 is legal when he was likely to be age barred. To what relief the workman is entitled to?"

2. After receiving reference, notices were issued to the parties. Ist party submitted statement of claim at Page 5/1 to 5/9. The case of Ist party workman is that he was appointed as clerk at shobhapur branch by the management of the Bank, Hoshangabad from 3.7.86. He performed his duties satisfactorily. Suddenly on 15.9.87, his services were discontinued by oral order. He was again appointed at Piparia branch after his representations. His services continued till 15.5.89. That he had worked for more than 240 days with the Bank during the period 1986 to 1989. His services were discontinued without any order in writing. He had approached ALC and the dispute has been referred. He had completed 154 days service. He claims that his services are illegally terminated contrary to the service rules and guidelines issued by the Bank.

3. IInd party filed Written Statement at Page 7/1 to 7/5. IInd party submits that the workman was engaged on daily wages @Rs. 15/- to Rs. 20/- per day. He had not worked for more than 59 days at the time. That workman was never appointed as clerk at Sohagpur Branch. He was not appointed on regular basis. There was no question of issuing showcause notice to the workman, no appointment letter was issued to him. From 15.5.89, workman had worked for 153 days at sohagpur branch. In 1986 he had worked for 153 days at Sohagpur Branch, in 1987, he had worked for 128 days at Sohagpur Area and in 1987, he worked for 21 days at Pipariya branch. That the workman had not completed 240 days working in any of the calender year. He is not entitled to relief prayed by him. IInd party denied all other contentions of Ist party workman.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- | | |
|---|--|
| (i) Whether the termination of Shri Surendra Kumar Jain, S/o Shri S.L. Jain, Hoshangabad working as clerk in Regional Rural Bank from 3.7.86 to 28.6.89 is illegal? | In Negative |
| (ii) If so, to what relief the workman is entitled to?" | Relief prayed by workman are rejected. |

REASONS

5. Though Ist party workman is challenging legality of termination of his service contending that he was working as clerk from 1986 to 1989 for different period. Workman did not adduce any evidence. He is proceeded exparte on 10.5.2011. The management failed to adduce evidence. Therefore the contentions of Ist party workman are not supported by any thread of evidence. Therefore I record my finding in Point No. 1 in Negative.

6. In the result, award is passed as under:—

1. Termination of Ist party workman Shri Surendra Kumar Jain, S/o Shri S.L. Jain, Hoshangabad working as clerk in Regional Rural Bank from 3.7.86 to 28.6.89 is legal.
2. Relief prayed by workman are rejected.

R.B. PATLE, Presiding Officer

नई दिल्ली, 13 अगस्त, 2013

का.आ. 1969.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स सी सी एल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 1 का 2008) को

प्रकाशित करती है, जो केन्द्रीय सरकार को 13/08/2013 को प्राप्त हुआ था।

[सं. एल-20012/134/2007-आईआर (सीएम-1)]
एम.के. सिंह, अनुभाग अधिकारी

New Delhi, the 13th August, 2013

S.O. 1969.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 01/2008) of the Cent.Govt.Indus.Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the management of The General Manager, M/s. BCCL and their workmen, received by the Central Government on 14/08/2013.

[No. L-20012/134/2007- IR(CM-I)]

M. K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD

Present : SHRI KISHORI RAM, Presiding Officer.

In the matter of an Industrial Dispute under Section 10(1)
(d) of the I.D. Act., 1947.

REFERENCE NO. 01 OF 2008

PARTIES : Employers in relation to the management of General Manager, Katras Area of M/s. BCCL and their workmen.

APPEARANCES:

On behalf of the workman : Mr. B.B. Pandey, Ld.
Advocate

On behalf of the Management : Mr. D.K. Verma, Ld.
Advocate

State : JHARKHAND Industry : COAL

Dated, Dhanbad, the 25th June, 2013

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on then under Sec.10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication *vide* their Order No. L-20012/134/07-1R (CM-I) dated 31.12.2007.

SCHEDULE

"Whether the action of the East Katras Colliery of M/s. BCCL in dismissing the services of Sh. Manik Lal Ram, Miner Loader *w.e.f.* 16.6.2005 is justified and legal? If not, to what relief is the concerned workman entitled?"

2. Mr. B.B. PANDEY, the Ld. Advocate for the Koyla Ispat Mazdoor Panchayat, Chattabad No. 5, Katrasgarh, Dhanbad with General Secretary Arjun Singh of the Union and Mr. D.K. Verma, the Learned Advocate for the Opp./Management, Katras Area of M/s. BCCL, Sijua, Dhanbad are present.

Filing a petition today, Mr. Pandey, the Learned Advocate for the Union/Workman Manik Lal Ram submits that since the workman is not interested to proceed with the case, and intends to drop the matter, it may be closed, as no longer Industrial dispute exists.

Perusal of the case record transpires its pendency for filing documents on behalf of the both the parties, the present reference relates to an issue about dismissal of the said workman as the M/Loader *w.e.f.* 16.02.2005, but the workman himself appears to be uninterested in contesting the case. Under these circumstances, the case is closed and accordingly an order of the "No Industrial Dispute" is passed.

KISHORI RAM, Presiding Officer

नई दिल्ली, 20 अगस्त, 2013

कार्रवाई 1970.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार स्टेट बैंक ऑफ इन्दौर के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण जबलपुर के पंचाट (संदर्भ संख्या 20/2001) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02/08/2013 को प्राप्त हुआ था।

[सं. एल-12012/334/2000-आईआर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 20th August, 2013

S.O. 1970.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 20/2001) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of Indore and their workmen, received by the Central Government on 02/08/2013.

[No. L-12012/334/2000-IR(B-I)]
SUMATI SAKLANI, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/20/2001****PRESIDING OFFICER: SHRIR.B. PATLE**

Shri P.N. Sharma, Chairman,
All India State Bank of Indore employees
Coordination Committee, 138,
Shakti Nagar,
Jabalpur

Workman

VERSUS

General Manager (Operations),
State Bank of Indore,
Head office, 5, Yeshwant
Niwas Road,
Indore

Management

AWARD

Passed on this 12th day of June, 2013

1. As per letter dated 29-12-2000 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D. Act, 1947 as per Notification No. L-12012/334/2000/1R(B-I). The dispute under reference relates to:

" Whether the action of the management of State Bank of Indore, Jabalpur (MP) in terminating the services of Shri Pradeep Singh Suryavanshi w.e.f. 1-2-1998 is justified? If not, what relief he is entitled?"

2. After receiving reference, notices were issued to the parties. Ist party workman submitted his statement of claim. The case of the Ist party workman is that he was employed as peon-cum-guard at Regional office, Jabalpur of the Bank on 15-6-95. He continued to work without break till 31-1-98. He was appointed against permanent vacancy. He was wrongly terminated from 1-2-98 without following procedure laid down under Bipartite Settlement and provisions of I.D. Act. Prior notice was not given, salary in lieu of notice was not paid. He was not paid retrenchment as per Section 25-F of I.D. Act. That he had put continuous service more than 240 days as defined in Section 25-B of I.D. Act. That he was entitled to get full scale wages but he was paid Rs. 55/- per day in violation of Bipartite Settlement. That his termination is illegal. He prays for reinstatement with consequential benefits.

3. Management of IInd party filed Written Statement at Page 16 to 23. IInd party denied claim of the workman. Preliminary objection is raised that workman had never

worked as peon-cum-guard in the bank therefore reference is not tenable. There is no question of terminating the services of workman as he was not employed by following proper process. Workman was not appointed neither terminated by the Bank. The reference is not proper.

4. It is submitted that Bank is a statutory corporation carrying banking business through different offices. The Bank has its service regulations for recruitment of Class-III/IV employees. The appointment of messengers, peon and guards are made by Head Office following recruitment procedure giving wide publications in newspapers, names sponsored by Employment Exchange of candidate's qualifications. That applicant's name was not sponsored through Employment Exchange. He was not called for any interview or any recruitment process. The Bank had not engage workman for services claimed by the workman. It is further submitted that for utilizing services for 1-2 hours for fetching water from tap from ground floor to Ist floor, the workman was paid amount agreed by him. His disengagement cannot be termed as retrenchment. His disengagement is covered under Section 2(oo)(aa) of I.D. Act.

5. IInd party management denied that workman had completed 240 days continuous service preceding his termination. No evidence was produced in that regard. That services of workman were utilized for 1-2 hours for fetching water from tap at ground floor. It is denied that the services are terminated in violation of Section 25-F of I.D. Act, The claim of Ist party is liable to be rejected.

6. The workman submitted rejoinder at page 16/1 to 16/3 reiterating his earlier contentions that he had worked for 240 days preceding 12 months from the date of his termination. He is workman under Section 25(B) of I.D. Act. His services are illegally terminated in violation of Section 25-F, G of I.D. Act.

7. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|---------------------|
| (i) Whether the action of the management of State, Bank of Indore, Jabalpur (MP) in terminating the services of Shri Pradeep Singh Suryavanshi w.e.f. 1-2-1998 is legal? | In Negative |
| (ii) If so, to what relief the workman is entitled to?" | As per final order. |

REASONS

8. Ist party workman is challenging his termination. Affidavit of his evidence is filed. He has stated in his

affidavit that he has passed 8th standard in 1990, his name was enrolled in Employment Exchange office. He was engaged as peon/watchman from 15-6-95 and continued to work till 31-1-98. He had completed 240 days continuous service during each of the calendar year. His services were terminated without notice. He was not paid retrenchment compensation. He was not paid salary in lieu of notice. He is unemployed. That juniors Laxmi Narayan, Rajesh Sen, Arvind, Maniram Yadav, Umesh and Mukesh Agrawal are working at Indore, Jabalpur etc. In his cross-examination, the workman says that the appointments of peon/farrash is made as per rules of the Bank. He further says that in 1995, he was of 18-19 years. That he had submitted application for appointment. He was not called for written test or interview. Appointment letter was not given to him. That as per Exhibit W-3, he was paid wages Rs. 55/- per day. The permanent staff was paid Rs.10 to 15 thousand. He denies suggestion that he had not worked for 240 days preceding his determination. In his re-examination, workman has stated that one Umakant Thakur has submitted application Exhibit W-4. That he had submitted application to management for increasing his wages Exhibit W-5.

9. Management filed evidence of affidavit of witness Shri Pawan Vijayvargiya. He has stated in his affidavit that the workman had not continuously worked from 15-6-95 to 31-1-98. He was not appointed on any post. He is not employee of the Bank That he was engaged for cleaning work, he was working for 1-2 hours, wages were paid to him as per agreement. That workman was not appointed following selection procedure. In his cross-examination, management witness says that he does not identify the workman that wages were paid in cash under vouchers and the vouchers may be available with the Bank. The record about regular selection may be in the Bank. Any way said record is not produced. Despite the witness has undertaken to produce the record. At the time of argument, learned counsel for Ist party workman Mr. Praveen Yadav pointed out my attention that application for production of document was filed requesting management to produce Petty Cash Register, Miscellaneous Register for the period from 16-6-95 to 31-1-98. The application was opposed. IInd party has not produced those document. Though witness of the management says that document may be available in the Bank but documents are not produced. It is clear that the Bank is withholding the material documents, not producing before Court and therefore evidence of workman that he was continuously working for more than 240 days deserves to be accepted. The record about payment of wages and vouchers of daily wage employees are in the Bank, those documents are not produced. Those documents would support the claim of the workman. From above discussion, it is clear that workman had completed 240 days continuous working preceding his termination. His services are terminated in violation of Section 25-F of

I.D. Act. Therefore the termination of service of Ist party workman is illegal. I therefore record my finding in Point No.1 in Negative.

10. Point No. 2- In view of my finding in Point No.1, services of workman are terminated in violation of Section 25-F of I.D. Act, the question arises to what relief the workman is entitled, whether he is entitled to reinstatement with backwages. As per the pleadings and evidence of Ist Party workman, he was working with the IInd party bank from 15-6-95 to 31-1-98 for about 2½ years. There is no evidence that he was appointed following recruitment rules. No appointment order was issued to him therefore the 1st party workman would not be entitled for reinstatement with back wages. It is not a rule or thump that in all the cases where termination is in violation of Section 25-F, reinstatement with back wages should be ordered. Alternative relief of suitable compensation shall be granted as argued by counsel for IInd party Shri Shrotri. Considering the spam of service rendered by workman, in my considered view retrenchment compensation for 2½ years i.e. 3 years i.e. for 45 days @ Rs. 51/- per day = Rs. 2475/-, notice pay @ Rs. 55/- for 30 days = Rs. 1650/- and compensation Rs. One Lakh needs to be paid to the workman. Accordingly I hold and record my finding on Point No. 2.

In the result, award is passed as under:—

- (i) The action of the management of State Bank of Indore, Jabalpur (MP) in terminating the services of Shri Pradeep Singh Suryavanshi w.e.f. 1-2-1998 is illegal.
- (ii) IInd party is directed to pay retrenchment compensation-Rs. 2475/-, notice pay-Rs.1650/- and Rs. 1 Lakh compensation to the Ist party workman immediately.

If the amount as per above order is not paid within 30 days, the said amount shall carry interest @ 9% per annum from the date of award till its realization.

R.B. PATLE, Presiding Officer

नई दिल्ली, 20 अगस्त, 2013

का०आ० 1971.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक ऑफ राजस्थान लि. के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट संदर्भ संख्या 1/09 को प्रकाशित करती है, जो केन्द्रीय सरकार को 02/08/2013 को प्राप्त हुआ था।

[सं० एल-12012/82/2007-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 20th August, 2013

S.O. 1971.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 1/09) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Bank of Rajasthan Ltd. and their workmen, received by the Central Government on 02/08/2013.

[No. L-12012/82/2007-IR(B-I)]
SUMATI SAKLANI, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/1/09

PRESIDING OFFICER: SHRI R.B.PATLE

General Secretary,
Pratadith Karmachari Kalyan Manch,
9, Sanwer Road,
Ujjain

...Workman/Union

VERSUS

The Managing Director,
Bank of Rajasthan Ltd.,
Head Office, G-3,
Sardar Patel Marg,
Jaipur

...Management

AWARD

Passed on this 1st day of March 2013

1. Present reference is received as per letter dated 3-2-2009 from Govt. of India, Ministry of Labour, New Delhi. It appears that by earlier letter dated 3-8-07, the reference was forwarded to this tribunal but the same was not received. Consequently the reference was sent again. The dispute is referred as per Notification No.L-12012/82/2007- IR(B-I) . The dispute under reference relates to:

"Whether the action of the management of Asstt. General Manager, Bank of Rajasthan Ltd. in terminating the services of Shri Bhupendra Pawar *w.e.f.* 15-1-2005 is legal and justified? If not, to what relief the workman concerned is entitled?"

2. After receipt of reference, notices were issued to the parties. The 1st party/workman submitted his statement of claim at Page 3/1 to 3/5. The case of 1st party/workman as per the statement of claim is that he was engaged on daily wages of Rs.25/- per day in March-96 as peon. Since then he was continuously working, his wages were increased from Rs.30/- to Rs.40/-, 50/- & 60/- per day. He was not paid wages for holidays like 26th January and 15th August. The record about payment of wages was with

IInd party/Bank. He had completed 240 days continuous service. The Branch Manager discontinued his services from 15-1-01 without notice, without paying retrenchment compensation. It is alleged that his services are terminated in violation of Section 33 of ID.Act. The payment of wages vouchers bears signatures of the Branch Managers working from time to time. He submitted proceeding for conciliation and on its failure, the dispute has been referred for adjudication.

3. 1st party/workman submits that he had worked continuously for 240 days. As such he is covered under Section 25(b) of I.D.Act. He had completed 9 years service. His services are terminated in contravention of Section 25-F, G & N of I.D.Act. The principles of "last come first go" is not followed. On such contentions, 1st party/workman prays for regularisation of his service from 16-1-05, reinstatement with back wages.

4. IInd party filed Written Statement at Page 6/1 to 6/7. It is submitted that representative Shri Ram Nagwanshi cannot file the reference. He was ex-employee of State Bank of Indore, he was dismissed from service. Ratio in various cases on above point is relied by IInd party. It is denied that 1st party/workman was continuously working for more than 240 days, it is denied that his services are terminated in violation of Section 25F, H of I.D.Act. It is submitted that the post of Peon, Messenger, Security Guard in the Bank are filled after advertisement. The Branch Manager has no power to make their payments. 1st party/workman is trying to get regular post by back door. The procedure for recruitment is not followed for appointment of the 1st party/workman. There is no employee, employer relationship between the 1st and IInd party. The daily wage or adhoc employee are not entitled for regularization. In para-14 to 27 of the Written Statement, IInd party has referred the ratio held on different cases on the point that in proceeding filed by 1st party before Controlling Authority under P.G. Act, Jabalpur, it was held that 1st party/workman did not work continuously for 240 days therefore he is not entitled to relief prayed by him. On such ground, IInd prays for rejection of the claim of 1st party/workman.

5. 1st party/workman filed rejoinder at Page 7/1 to 7/3 denying contention of the IInd party. It is submitted that the copy of citations referred in the Written statement are not produced. That 1st party/workman has worked for 8 hours as messenger. His wages were drawn in the Bank of other employees and were paid to him. 1st party/workman restated that his claim be allowed.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:—

- (i) Whether the action of the management of Asstt. Gen. Manager, Bank of Rajasthan In Negative

Ltd. in terminating the services
of Shri Bhupendra Pawar *w.e.f.*
15.1.2005 is legal and justified?

- (ii) If not, what relief the workman is entitled to?" Demands of 1st party/workman are rejected.

REASONS

7. Though locus of representative of 1st party Mr. Nagwanshi is challenged by the IInd party, any argument were not advanced in that regard. This point was waved at the time of final argument. In support of his claim, 1st party workman filed affidavit of his evidence claiming that he was working on daily wages with the IInd party Bank on March 96. He was doing cleaning work in the Bank from 8.30 AM. Thereafter he was doing different works in Bank as per direction of the Bank Manager like taking vouchers, token book, ledger from one table to other, providing drinking water to staff and customers. He was doing such work from 10 AM to 6 PM. He had completed 240 days work. His wages were increased from Rs.20 to 30, 40, 50 & 60 per day. He also refers to information called by Regional office, Indore about his working. The said letter is produced at Exhibit W/1. The only information was called from the Branch office, Indore about the 1st party/workman whether he was working on daily wages. The said document is silent about the working days and wages paid to 1st party. 1st party has produced documents along with his affidavit. The xerox copies of all documents contains payments made to different persons for different purposes. There is absolutely no reference about payment of wages to the 1st party/workman. There is absolutely no evidence that 1st party/workman was doing work continuously for more than 240 days prior to his alleged termination. The evidence on affidavit of 1st party remained unchallenged as he was not cross-examined but it is not sufficient to establish continuous working of 1st party in the Bank and other details pleaded by him.

8. The evidence of management's witness Shri Ramdev Sunar on affidavit is filed. The said witness was cross-examined by 1st party. In his cross-examination, the witness says that cleaning work was done in Bank every day. Different employees were engaged for it. On the information received from regular employee, he had stated that workman was working for 40, 50 months during a day. That wages of 1st party were paid withdrawing amount in the name of regular employees. He claims ignorance that there was any order for payment of wages in name of regular employee. The evidence of management's witness also does not substantiate claim of 1st party that he had worked continuously for more than 240 days prior to his retrenchment compensation.

9. The management has alleged that in proceeding filed before Controlling Authority under P.G.Act, Jabalpur was held that 1st party/workman has not worked for 240

days preceding the date of his termination. The copy of the said judgment/order is not produced on record. On scrutiny of whole evidence, I find that 1st party/workman has not established that he worked for 240 days continuously preceding his date of termination, therefore he is not entitled to protection under Section 25-H of I.D.Act. For above reasons, I record my finding in Point No.1 as Negative.

10. In the result, I pass following award—

1. The demand of 1st party/workman for his reinstatement with back wages is rejected as he has failed to prove that he worked 240 days continuously prior to his termination.
2. 1st party/workman is not entitled to any relief as claimed by him.

R.B. PATLE, Presiding Officer

नई दिल्ली, 20 अगस्त, 2013

का.आ. 1972.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट संदर्भ संख्या 159/99 को प्रकाशित करती है, जो केन्द्रीय सरकार को 02/08/2013 को प्राप्त हुआ था।

[सं एल-12012/584/98-आई आर (बी-1)]

सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 20th August, 2013

S.O. 1972.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. 159/99) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 02/08/2013

[No. L-12012/584/98-IR(B-I)]

SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

No. CGIT/LC/R/159/99

PRESIDING OFFICER: SHRI R.B.PATLE

Shri Shivshankarlal Yadav,

S/o Shri Rajaram Yadav, I

Ex-worker of SBI,

Chandini chowk, Babupara,

Raigarh (MP)

...Workman

VERSUS

Regional Manager,
State Bank of India,
Region-V, Shankarnagar,
Raipur (MP)

...Management

AWARD

Passed on this 13th day of June 2013

1. As per letter dated 19-4-99 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12012/584/98/1R(B-I). The dispute under reference relates to:

"Whether the action of the State Bank of India, Raigarh Branch (under the Regional manager, Region-V, Raipur MP) in terminating the services of Shri Shivshankarlal Yadav, Ex-Daily rated/Casual worker with effect from 6-3-1997 is justified? If not to what relief the workman is entitled?"

2. After receiving reference, notices were issued to the parties. Workman submitted statement of claim at Page 2/1 to 2/4. The case of 1st party workman is that he had worked as waterman on daily wages from February 1991 to August 1994 continuously. He had completed 240 days in a calendar year. He belongs to OBC. His services were illegally discontinued and persons worked for lesser days were regularized. That he had completed 240 days continuous service before his discontinuance amounts to retrenchment under Section 25- F of I.D.Act. That Shri Mehattar Chouhan, Benudhar Gupta and Paras Namdeo and many other daily wagers have been regularised in service on the pretext of being successful in the interview. That the interview is a farce, only name address etc. is being asked in the interview for regularizing a workman on the post of waterman, messenger and Farrash. That the management of IInd party adopted pick and choose method. On such contentions workman is praying for his reinstatement.

3. IInd party management of the Bank filed Written Statement at Page 8/1 to 8/7. It is submitted by IInd party that the workman was employed purely as part time daily rated employee as waterman for sprinkling water on Khastatti. From January 91 to August 91 he worked for 168 days, from August 91 to November 91 for 76 days and from May 93 to December 93 for 183 days. That he was engaged on contract basis as per exigency of work. As soon as work was over employee was not required therefore he was not engaged after December 1993. That reference is not tenable. That the workman had not completed 240 days in any of the calendar year. His discontinuation is covered under Section 2(o)(bb) of I.D.Act. The workman was considered for permanent appointment as per Bipartite agreement dated 17-11-87, 16-7-88, 28-10-88, 9-1-91,

9-7-92. That he was called for interview on 6-3-97. The Committee found him unsuitable for permanent appointment as per advise letters dated 31-1-98, 2-5-98, the selected candidate were appointed against available vacancies. That the employee had not completed 240 days working during any of the preceding year. He is not entitled to reinstatement as prayed by him.

4. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the State Bank of India, Raigarh Branch (under the Regional manager, Region-V, Raipur MP) in terminating the services of Shri Shivshankarlal Yadav, Ex-Daily rated/Casual worker with effect from 6-3-1997 is legal? In Affirmative

(ii) If so, to what relief the workman is entitled to?" Relief prayed by workman is rejected.

REASONS

5. In the dispute under reference, 1st party workman has challenged his termination from service w.e.f. 6-3-97. He claimed to have continuously worked in the Bank from Feb 1992 to August 1994 and completed 240 days continuous service. However the workman has failed to adduce evidence. The case is proceeded ex parte against workman on 20-6-2012. Management filed affidavit of evidence of witness Laxman Das Agrawal. The said witness has stated in his affidavit that the workman was engaged as part time daily wager for sprinkling water on Khastatti during the period January 91 to August 1991- he had worked for 168 days, August 1991 to November 91- 76 days and May 93 to December 93- 183 days. That workman did not work after December 1993. It is incorrect but the workman worked till March 1997. The evidence of witness remained unchallenged. The workman has not adduced any evidence neither he has cross-examined witness of the management. Therefore termination of workman from 6-3-97 is not proper, the action cannot be said illegal. For above reasons, I record my finding on Point No.1 in Affirmative.

6. In the result, award is passed as under:-

(i) The action of the State Bank of India, Raigarh Branch (under the Regional manager, Region-V, Raipur MP) in terminating the services of Shri Shivshankarlal Yadav w.e.f. 6-3-97 is not proved illegal.

(ii) Relief prayed by workman is rejected.

R. B. PATLE, Presiding Officer

नई दिल्ली, 20 अगस्त, 2013

का.आ. 1973.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ संख्या 169/2003) को प्रकाशित करती है, जो केन्द्रीय सरकार को 02/08/2013 को प्राप्त हुआ था।

[सं. एल-12012/146/2003-आई आर (बी-1)]
सुमति सकलानी, अनुभाग अधिकारी

New Delhi, the 20th August, 2013

S.O. 1973.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 169/2003) of the Cent. Govt. Indus. Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the industrial dispute between the management of State Bank of India and their workmen, received by the Central Government on 02/08/2013.

[No. L-12012/146/2003-IR(B-I)]
SUMATI SAKLANI, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/169/2003

PRESIDING OFFICER: SHRIR. B. PATLE

Shri Rakesh Kumar Jain,
S/o Shri Gyanchand Jain,
R/o Nai Aabadi, Gali No. 2,
Bhind (MP) ...Workman

VERSUS

Assistant General Manager,
State Bank of India, Regional Office,
Jayendraganj,
Gwalior ...Management

AWARD

Passed on this 13th day of June 2013

1. As per letter dated 22-27/10/2003 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section 10 of I. D. Act, 1947 as per Notification No. L-12012/146/2003-IR(B-1). The dispute under reference relates to:

"Whether the action of the management of Asstt. General Manager, State Bank of India, Gwalior in terminating the services of Shri Rakesh Kumar Jain S/o Shri Gyanchand Jain w.e.f. 1-5-97 is justified?

If not, to what relief the workman is entitled for?"

2. After receiving reference, notices were issued to the parties. 1st party submitted statement of claim at Page 3/1 to 3/3. The case of 1st party is that he was appointed by IInd party No. 3, SBI, Itawa Road, Bhind as messenger from 5-8-85 for 84 days. Thereafter his appointment was extended from time to time. He continuously worked till 1989. Again he was appointed in May 1992 and continuously worked till 30-4-97. His services were suddenly terminated from 1-5-97. His services were terminated without assigning any reason, no termination order was given in writing. That he was paid salary in the name of Subhash Jain, Pradeep Jain and Rajendra Shukla. When he opposed to take salary and in name of other persons, he was threatened and compelled to receive salary in name of other persons. He was interviewed on 17-8-92 for regular appointment but its result was not disclosed to him. He claims to have continuously worked for more than 240 days. That he was not given notice, he was not paid salary in lieu of notice, termination of his services is in violation of Section 25-F, G & H of I.D. Act. That he is not in gainful employment, that he prays for reinstatement with consequential benefits.

3. The management filed Written Statement at Page 7/1 to 7/9. The IInd party submits that the workman was engaged on daily wages as messenger only for 84 days in 1985, rest of the contention of the workman are denied. That the workman was not in employment of the Bank. His services were on contract basis. He had not worked for 240 days in any year. That workman had worked intermittently for 104 days during 1988-89 has Hammal. That his engagement could not be treated as in continuous service. That the management has elaborate selection procedure as per the Agreement entered into with the Employees Association. These agreements were made on 17-11-87, 16-7-88, 28-10-88 and 9-1-91. That workman was called for interview on 23-12-90, he was found not eligible. The workman had worked only for 84 days till cut off date of 14-8-1991. As per settlement, the panel was required to be kept alive till March 1997 so that opportunity for permanent appointment can be given to empanelled candidates against the vacancies available as on 31-12-94.

4. IInd party management denies that the workman continuously worked from May 1992 till 30-4-97. It is reiterated that the workman has not completed 240 days continuous service. After interview on 26-12-90, he was not found eligible for regular appointment. That discontinuation of his service does not amount to retrenchment under Section 2(oo) of I.D. Act. He is not entitled to protection of Section 25-F of I.D. Act. That the workman was engaged on daily wages. His services came to an end at the end of the day. On such contentions IInd party prays for rejection of the claim of the 1st party.

5. 1st party filed rejoinder at Page 8/1 to 8/2. He has reiterated his earlier contentions, he submits that no contract was executed by him with IInd party. It is false that he was not engaged after 1992.

6. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

- | | |
|--|--------------------|
| "(i) Whether the action of the management of Asstt. General Manager, State Bank of India, Gwalior in terminating the services of Shri Rakesh Kumar Jain S/o Shri Gyanchand Jain w.e.f. 1-5-97 is legal?" | In Negative |
| (ii) If so, to what relief the workman is entitled to?" | As per final order |

REASONS

7. From pleadings between parties, there is no dispute that the workman had worked for 84 days in 1985. IInd party further admits that 1st party workman had worked for 104 days in 1988-89. Other contentions of 1st party are totally denied by the IInd party. 1st party claimed that he had completed 240 days continuous service during all the calendar years. The above contentions of 1st party is denied by the management of IInd party. The parties are in serious dispute about whether 1st party was in continuous service for 240 days preceding his termination. In his affidavit of evidence, 1st party has stated on oath during May 1992 to 30-4-97, he worked for more than 240 days. He was not issued notice, he was not paid retrenchment compensation, he was not paid salary in lieu of notice. In his cross-examination, he says that he was working from 5-8-85 to 30-4-97 continuously. Appointment letter was given to him. He was working on daily wages. He has produced documents about it, he has received document for interview in 1992. He has produced said document on record. He was paid wages in name of other persons. His evidence that he had worked for more than 240 days, he was not given notice, salary in lieu of notice was not paid to him, retrenchment compensation was not paid to him is not challenged in his cross-examination. Workman has submitted application for production of documents i.e. copy of outward register in SBI Bhind for the period 25-1-97 to 31-3-97 and all copies of letters sent by Chief Manager Bhind to Asstt. Manager, SBI, Gwalior. The application was opposed as per order dated 6-1-2011. The workman was allowed permission to allow secondly evidence to prove his case and adverse interference will be drawn for not filing specific reply regarding documents. The evidence on material point discussed above stated by workman in his affidavit is not challenged in his cross-examination, the evidence in material point remained unchallenged and as such amounts to admitted fact.

8. IInd party submitted affidavit of witness Shri Lokendra Kumar Sharma, Chief Manager. His evidence is on the point that in 1985, workman had worked only for 84 days, he was not in continuous service of the Bank. In 1988-89, he worked for 104 days intermittently. He was engaged on contract basis during 1992. That there is nothing in Branch to show that workman worked upto 1-5-97. That he had never worked for 240 days during any of the calendar year. In his cross-examination, management's witness says when workman Rakesh Kumar Jain was working at Bhind, he was not working in said branch, he has no personal knowledge about his working. That he submitted affidavit on the basis of available record. He did not remember how many days workman worked in the Bank during 1990 to 1994. The witness of the management has no personal knowledge about working of workman. On the other hand, evidence of workman that he had completed 240 days working during each calendar year was not challenged in his cross-examination. The application for production of documents was filed. Those documents was not produced. If the evidence of parties is tested on probabilities, unchallenged evidence of 1st party cannot be rejected whereas the evidence of the witness of IInd party has no personal knowledge of the workman of the workman and therefore his evidence cannot be preferred to the evidence adduced by workman. For above reasons, I find no reason to disbelieve evidence of workman that he had worked for more than 240 days during each of the calendar year during 1992 to 1997.

9. Learned counsel for 1st party Mr. S. Mishra relies on ratio held in

Case of Director, Fisheries Terminal Department versus Bhikubhai Meghajibhai Chavda reported in 2010-1-Supreme Court Cases 47. Their Lordship dealing with scope of Section 2(oo)(bb), 25-A, 25-F, 25-B and 25-G of I.D. Act held no evidence produced of decision of Government with regard to declaring fisheries a seasonal industry, hence the same cannot be classified as such.

In present case, such question is not involved, the ratio cannot be applied to case at hand.

Their Lordship further held documentary evidence produced by appellant employer contradictory of its claim that respondent had not worked requisite 240 days.

The facts in present case are not comparable. The ratio cannot be applied to the present case. However in the present case, evidence of workman that he had completed 240 days continuous service during each of calendar year, he was not served with notice, salary in lieu of notice was not paid, retrenchment compensation was not paid to him remained unchallenged in his cross-examination.

10. Learned counsel for IInd party Shri Shrotri relies on ratio held in

"Case of Municipal Corporation, Faridabad versus Shri Niwas reported in 2004- 8-Supreme Court Cases

195. Their Lordship dealing with non-production of documents and adverse inference may be drawn held presumption as to adverse inference is always optional and one of the factors which is required to be taken into consideration is the background of facts involved in the lis- notwithstanding the intentional non-production of evidence, other circumstances may exist upon which such intentional non-production may be found to be justifiable on some reasonable grounds — Moreover a party in order to get the benefit of Section 114 III.(g), Evidence Act must place some evidence in support of his case- Here the respondent had failed to lead any evidence whatsoever in support of his contention that he had complied with the requirements of Section 25-B. Hence the Tribunal was well within its jurisdiction in exercising its discretion not to draw any adverse inference against the appellant employer. "

In present case it is pointed out by IInd party Mr. Shrotri. Application No.10 was submitted for documents of outward register — January to March 1997 and all letters sent by Chief Manager to Assistant General Manager during said period. The document sought to be produced do not relate to the attendance register, payment of wages and therefore adverse inference cannot be drawn against the management. No doubt considering application No.10, the nature of documents sought to be produced no adverse inference about working days of the workman. However as discussed above in evidence, he has worked for more than 240 days during each of the calendar year remained unchallenged and there is no reason to reject the said evidence. Therefore I hold that 1st party workman had completed 240 days continuous service prior to his termination. His services were terminated in violation of Section 25-H of I.D. Act. He was not paid retrenchment compensation, no notice was issued. Therefore the action of the management is illegal. Accordingly I record my finding on Point No. 1.

11. Point No. 2- In view of my finding on Point No. 1, question arises as to what relief the workman is entitled to? As per evidence on record, since 1997, workman is out of employment for about 17 years, he was working on daily wages, he was not appointed against regular post. Therefore reinstatement of workman would not be appropriate rather awarding reasonable compensation would be appropriate in the matter. Considering that the workman was working on daily wages with IInd party from 1985 to 1997, compensation Rs.1,50,000 would be justified. The workman would also be entitled to retrenchment compensation for 12 years completed service, 6 months wages and one months notice pay. Accordingly I hold Issue No. 2.

12. In the result, award is passed as under:-

- (i) The action of the management of Asstt. General Manager, State Bank of India, Gwalior in terminating the services of Shri Rakesh Kumar Jain S/o Shri Gyanchand Jain w.e.f. 1-5-97 is illegal.
- (ii) IInd party management is directed to pay compensation Rs.1,50,000, retrenchment compensation for 12 years completed service and one month's notice pay at the rate of last wages paid to him.

Amount as per above order shall be paid to workman within 30 days. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 21 अगस्त, 2013

का०आ 1974.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी सी सी एल के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 2, धनबाद के पंचाट (संदर्भ संख्या 185 ऑफ 1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/08/2013 को प्राप्त हुआ था।

[सं० एल-20012/216/1997-आईआर (सी एम-I)
एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 21st August, 2013

S.O. 1974.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 185/1998) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received by the Central Government on 21/08/2013.

[No. L-20012/216/1997-IR(CM-I)]
M.K. SINGH, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL (NO. 2), AT DHANBAD
PRESENT : SHRI KISHORI RAM, Presiding Officer**

In the matter of an Industrial Dispute under Section
10(1)(d) of the I.D. Act, 1947

REFERENCE NO.185 OF 1998.

PARTIES The Secretary,
Koyla Ispat Mazdoor Panchayat,
Mohuda, Dhanbad, Vs. General Manager,

Mohuda Area No. II of M/s. BCCL,
Mhuda, Dhanbad.

APPEARANCES:

On behalf of the workman Mr. B. B. Pandey. Ld.
Advocate

On behalf of the Mr. D.K.Verma, Ld. Advocate
Management

State: Jharkhand Industry : Coal

Dated, Dhanbad, the 26th July, 2013

AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on then under Sec. 10 (1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/216/97-IR(C-1) dt. 27.8.1998

SCHEDULE

"Whether the action of the management of Mohuda Area No. II of M/s. BCCL in dismissing Shri Nago Dusadh is legal and justified? If not, to what relief the concerned workman is entitled to?"

2 The case of the Koyla Ispat Mazdoor Panchyat, Chhatabad, Dhanbad for workman Nago Dusadh is that he is a M/Loader of Murlidih 20/22 Pit Colliery of M/s. BCCL under Mahuda Area No.11, was a permanent employee of the colliery. The workman was chargesheeted with suspension as per the letter no. 20/21 Pits /91/2442 dt. 29/30.6.1991 for fraudulent employment in BCCL in place of Jogeshwar Dusadh Wagon Loader at Murlidih Colliery who was medically declared unfit, as he was not son of Jogeshwar Dusadh, Mohuda P.S. Case No. 221/91 G.R. Case No.760/91 on the F.I.R. was lodged against him under sections 419, 420 etc. I.P.C. on the same allegation, but the workman was acquitted by Shri S.K. Sinha, the Judicial Magistrate 1st class, Dhanbad on 28.6.1995. The workman has also submitted his reply to the chargesheet, denying all the allegations. After being dissatisfied with his reply the Management as per its letter no. 20/21 Pits/PD/00/91/4283 dt. 22.10.91 decided to hold the enquiry. Accordingly, Sri N.K.Singh, Dy. C.M.E., Mahuda Area was appointed as the Enquiry Officer for it.

3. On notice of the enquiry, the workman filed the T.S. No. 55/92 in the court of the Munsif II, Dhanbad for permanent injunction, and thereafter hearing the parties, it was directed that no punitive action would be taken against the workman till the conclusion of the said criminal trial. But the departmental enquiry was concluded during the pendency of the criminal trial, without giving him sufficient opportunity for his defence contrary to the rule of the natural justice. At the conclusion of the criminal Trial, the workman submitted an application along with copies of

the judgment of his acquittal, and of the order dt. 4.9.95 passed in the Title Suit No. 55/92 to the management for due consideration, but after the conclusion of the departmental enquiry based on the same charges, he was dismissed w.e.f. 2.5.96 from his service as per the letter dt. 30.4.96/2.5.96. The workman remained suspended w.e.f. 30.6.91 to 1.5.96 without suspensions allowance, so he made representations to the management on 29.5.92, 17.7.92 and 2.11.1993 and even to the Enquiry Officer on 7.7.92 about it, but all ineffective. It is alleged neither supply of any document to him, nor application of mind by the Colliery Agent nor placement of his explanation dt. 20.3.96 before the Punishment Authority. The dismissal of the workman against the Certified Standing Order was illegal and unjustified. On failure in conciliation in the I.D. raised by the union for the workman before the ALC (C), Dhanbad, it resulted in the reference for an adjudication.

4. The Union in its rejoinder specifically denying the allegation has stated that Sri Jageshwar Dusadh Ex-Wagon Loader, had never proposed nor stated to give employment to his daughter Maya Kumari.

5. Whereas in a challenge to the maintainability of the reference, the contra pleaded case of the OP/Management with categorical denials is that Nago Dusadh got himself appointed as a M/Loader by submitting himself as son of Late Jogeshwar Dusadh. Subsequently, said Jogeshwar Dusadh, Ex-Wagon Loader, Murlidih Colliery had submitted a written complaint that on termination of his service for his medically unfitness, he had proposed to give employment to his daughter Maya Kumari, for which he had entrusted with Sri Nago Dusadh to get the employment of his daughter, but aforesaid Nago Dusadh entered into the Service of M/s. BCCL as his son in place of his daughter Maya Kumari. At the receipt of the complaint, the Management lodged the F.I.R. with Mohuda Police Station against and issued charge sheet with suspension order to Sri Nago Dusadh as per letter nos. 2596 and 2442 dt. 6th July and 30th June, 1991 respectively. The Personnel Officer of Bhurugnia Project conducted the domestic enquiry into the chargesheet against the workman as per principle of natural justice. On the basis of the Enquiry Report, the workman was dismissed from service as per letter no. 1241 dt. 2.5.1996.

In its rejoinder, categorically denying the allegations of the workman, the O.P./Management has stated the workman was not paid any subsistence allowance, as it was a case of impersonation, and he was found to be not genuine. The Enquiry Officer had no power to grant a subsistence allowance. Moreover, the workman had fully participated in the enquiry which was held fairly. The dismissal of the workman from services was quit right punishment for his impersonation, otherwise it would have been encouraged other persons to get such fraudulent employment into the M/s. BCCL. In case, the enquiry is declared unfair and proper, the management urged for

leading the evidences to prove the charges against the workman.

FINDING WITH REASONING

6. In the instant case, consequent upon the declaration of the domestic enquiry as unfair, improper and against the tenets of natural justice as per the Order No. 27 dt. 21.5.2004 of the Tribunal, MWI J.U. Khan, the Sr. Project Officer of Bhurungia Colliery for the O.P./Management, and two witnesses, namely, WW1 Nago Dusadh, the workman himself, and WW2 Jageshwar Dusadh, the Ex-Wagon Loader of Murlidih Colliery for the Union all on merits were respectively examined.

7. On the perusal and consideration of the afresh materials, I find that MMI J.U. Khan as the Sr. Project Officer of Bhurungia Project, Mohuda Area, has positively affirmed that the workman concerned had got his employment on compassionate ground declaring Ex Wagon Loader Jogeshwar Dusadh as his father who was medically declared unfit in the year 1989; the workman worked as Miner Loader at 20/21 Pits at Mahuda Area; but aforesaid Ex-wagon Loader Jogeshwar as per his petition (Ext.M.1) to the G.M. of Mahuda Area had complained of the employment of the workman concerned by false personification, as he was not his son, thereafter, on the chargesheet (Ext.M.3), being dissatisfied with his reply, the Disciplinary Authority as per his appointment letter (Ext.M.4) as the Enquiry Officer directed him to hold the domestic enquiry. It is also evident that after holding enquiry as per the enquiry proceeding also under the signature of the workman and his co-workers (Ext. M.5 series) and in course of which recording the statements of the workman concerned, Jogeshwar Dusadh and his wife Chinta Dusadh under their LTI and RTI (Ext.M.6 & 8 respectively) and the witnesses of the Management Viz. M.C. Khawas, Asgar Ali and Daula Mia. As per the Voter List of Baghmara Vidhan Sabha of the Constituency No. 281 (Ext.M.9), the name of the workman Nago Paswan under its Sl. No. 681 bears as son of Khublal Paswan (Ext.M.9/1), but the workman did not produce any paper to show as the son of Jogeshwar Dusadh. At the enquiry, he (MWI) submitted his enquiry report (Ext.M.10), and as per the Note sheet (Ext.M.11 of the Project Officer), the G.M. approved the dismissal of the workman from service, and accordingly he was dismissed from services as per the dismissal letter (Ext.M.12). The acknowledged fact of the Management witness (MWI) is that subsistence allowance was along unpaid to the workman upto his dismissal by the management during the enquiry on the ground of his involvement in a fraud case, though the workman had got acquittal in the local police case related to allegation of fraud as per its F.I.R.

8. Statement of WW1 Nago Dusadh, the workman himself, reveals his admission about his appointments as M/Loader on compassionate ground in the year 1990 at 20/

21 Pits of Murlidih Colliery after declaring his father Jogeshwar Dusadh medically unfit, the issuance of charge sheet to him with his suspension allowance by the management, the payment of suspension to him for first six months, and his dismissal by the management in the year 1996. But the facts of his living at Kustore and Kustore Colliery lying Dhanbad Assembly are his unpleaded, yet he proved his Voter's I.D. Card issued in the year 2003 as Ext.W.I which is inadmissible. Moreover the Voter I. Card of the workman Nago Dusadh son of Jageshwar Dusadh r/o Kustore, District : Dhanbad is dt.01.01.2003 which is more than 12 years later. As per his representations in the year 1992-93 (Ext.W.2 series), he sought for his Suspension Allowance, in the letter of the Management to the A.L.C.(C), Dhanbad (Ext.W.3) relates to the fraudulent employment of the workman through impersonification as son of Late Jogeshwar Dusadh. The Certified copies of the formal F.I.R. and the judgment of Sri K.S.C. Sinha, the Judicial Magistrate (1st Class), Dhanbad dt. 28.6.95 in the G.R. Case No. 760/91 (Ext.W.4 and 4/1 respectively) proved by the workman who was acquitted of the charges u/sec.419 etc. I.P.C. He (WWI) has denied that he is not the son of Jogeshwar Dusadh.

9. Accepting the facts of his stoppage from work by the management since 1989 on the ground of his medical unfitness, and Maya Kumari as his daughter, WW2 Jogeshwar Dusadh has flatly denied to have ever filed any complaint to the management about the workman Nago Dusadh to have fraudulently got his employment in place of his daughter Maya Kumari. He claimed to have stated before the Chas Court about the workman as his son for providing him employment. It is also observed that G.R. Case No. 760/91 based on such statement of Jogeshwar Dusadh and his daughter Maya Devi being hostile resulted in the acquittal of the workman from the charges of his fraudulent employment etc. as per the Judgment of the Judicial Magistrate 1st Class, Dhanbad (Ex. W4/1).

10. In view of the fresh materials on merits for both parties, Mr. B.B. Pandey, Ld. Advocate for the Union/workman has to submit that MWI J.U. Khan is the Enquiry Officer, so he is material witness that most of the management exhibits are meaningless for the purpose of the evidence on merits that the copy of the alleged complaint of Jogeshwar Dusadh in lack of proper proof and justification for its original one is fake and devoid of any significance, and that the workman got acquittal in the criminal case for his fraudulent employment. Further it has been argued by Mr. Pandey, Ld. Advocate for the Union/workman that the admission of the WW2 Jageshwar Dusadh that the workman is his son clearly disapproves the case of the O.P./Management in the reference; so the workman is alleged to be entitled to his reinstatement with full back wages with consequential reliefs, and to his subsistence allowance for the relevant period.

11 Whereas contention of Mr.D.K.Verma,the Ld.Counsel for the O.P./management is that the appointment of the workman Nago Dusadh in place of Ex. workman Jogeshwar Dusadh is an admitted fact, but the workman in lack of his substantial evidence has failed to discharge the onus of proof as the son of Ex-workman Jogeshwar Dusadh,as the latter had filed the complaint (Ext.M.1) against the present workman for his fraudulent employment in place of his daughter Maya Kumari.It is also further submitted that the O.P./manmagment with material evidence has proved its case that the workman ,who is not the son but fraudulently got his employment as the son of aforesaid Ex-workman Jogeshwar Dusadh,so his dismissal from the service by the O.P./Management was quite justified.

12 On perusal and consideration of the afresh materials as made available by the both the parties on the case record, I find the following facts:

- (i) The workman Nago Dusadh was appointed as M/Loader at Murlidih Colliery in the year 1990 at 20/21 Pits on compassionate ground as he is father Ex-workman Jogeshwar Dusadh having been medically declared unfit on 15.3.1989,
- (ii) At the complain of Ex-workman Jageswar (Jageshwar) Dusadh about the present workman Nag Dusadh to have fraudulently got employment in place of his daughter Maya Kumari, the management initiated the domestic enquiry into it as well as the criminal case as G.R.No.760/91 based on the F.I.R. of it(Ext.W.4) in which the workman was acquitted of the charges U/s 419,420 etc. of the I.P.C. as per the Judgments dt. 28.6.1995 of the Judicial Magistrate (Ist Class), Dhanbad, (Ext.W.4/1) based on the hostile statements of aforesaid Jogeshwar Dusadh, his alleged second wife Chinta Devi and Daughter Maya Devi.
- (iii) It is settled principle of law that a proceeding of departmental enquiry for the same charges of fraudulent employment is quite independent of any criminal case in respect of the same delinquent irrespective of its any prejudice to the enquiry.
- (iv) The workman Nago Dusadh has not any substantial material except his latest Voter I.D.Card (Ext.W.1) dt.1.1.2003 on his address, which is unpleaded, hence inadmissible.
- (v) Whereas with the cogent materials: the photocopy of Jagesar Dusadh,the Ex-Wagon Loader (Ext.M.1) the Voter List of 281 Baghmara Vidhan Sabha Nirvachan Chhetra

for the 1988 under SI.No 681 bearing the name of Nago Paswan S/o Khublal Paswan (Ext.t.M.9 and 9/1 respectively),and others, the O.P./Managment has crystal clearly proved that the workmn was not the son of Ex-workman Jageshwar (Jagesar) Dusadh,and that had fraudulently got his appointment as Miner Loader on compassionate ground in place of the Ex-workman •Jageshwar Dusad as his father after being declared medically unfit,and the said Ex-workman had wanted to employ his daughter Maya Kumari,but the Ex-workman later on in collusion with the workman appeared to be detracted from his truthful case related to the fraudulent employment. In view of the findings ,the arguments of Mr.Pandey,Ld.Counsel for the Union appears to be unreasonable and untenable.

In view of the aforesaid facts of the fraudulent employment of the workman as also found and proved by the O.P./Management ,the dismissal of the workman being quite proportionate to the misconduct of grave nature under provisions 26.1.11,26.1.12 and 26.1.2000 or of the Certified Standing Order of BCCL is quite legal and justified punishment. The workman deserves no relief under Section 11 A of the Industrial Dispute Act,1947.

Therefore,in response to the reference,it is hereby awarded that the action of the Management of Mahuda Area No.II of the M/s BCCL in dismissing Shri Nago Dusadh is quite legal and justified. So the workman concerned is not entitled to any relief.Let the copies — one Soft and one Hard of the Award be sent to the Ministry,Labour & Employment,New Delhi for information end needful publication in the Gazette of India.

KISHORI RAM, Presiding Officer

नई दिल्ली, 21 अगस्त, 2013

काआ 1975.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बी सी सी एल के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 2, धनबाद के पंचाट (संदर्भ संख्या 232 of 1998) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21/08/2013 को प्राप्त हुआ था।

[सं० एल-20012/150/1998-आईआर (सी एम-I)
एम० के० सिंह, अनुभाग अधिकारी

New Delhi, the 21st August, 2013

S.O. 1975.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 235/

1998) of the Cent. Govt. Indus. Tribunal-cum-Labour Court No 2, Dhanbad as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL and their workmen, received on 21/08/2013.

[No. L-200012/150/1998-IR(CM-I)]

M.K. SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD PRESENT

SHRI KISHORI RAM, Presiding Officer.

In the master of an Industrial Dispute under Section 10(1)(d) of the I.D. Act., 1947.

Reference No. 232 of 1998.

PARTIES: Jt. Secretary, Jharkhand Janta Mazdoor Union, Dhanbad, Vs. General Manager, Katras Atria of M/s BCCL, Dhanbad

APPEARANCES:

On behalf of the workman Mr. N. M. Kumar,
Ld. Advocate

On behalf of the Management Mr. D.K. Verma,
Ld. Advocate

State : Jharkhand Industry : Coal

Dated, Dhanbad, the 24th June, 2013

AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on then under Sec. 10(1)(d) of the I.D. Act., 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/150/98-1R (C-I) dated 1/12/1998.

SCHEDULE

"Whether the action of the management of Ram Kanali Colliery of M/s BCCL in dismissing Sri Bidhishan Kumar, M/Loader from the services of the Company w.e.f. 5/6.11.1996 only on the ground of Unauthorised absene from 1993 is justified ? If not, to what relief the concerned workman is entitled?."

2. The case of workman Bidhisan (Bibhishan) as sponsored by the Jharkhand Janta Mazdoor Union is that the workman was under the treatment as an Indoor patient at Central Hospital, Dhanbad, for his mental disorder in respect of which it was informed by his wife Unnate Kamin to the management time to time. So he had absented from his duty from 11.3.1993, but after fitness certificate, the workman sought permission for resumption of his duty. The management as per its letter no. 9228 dt. 9.8.1995 had referred him to the Central Hospital, Dhanbad for treatment.

Despite it, he was charge sheeted for aforesaid unauthorized absenteeism as a habitual absentee. The workman was not given opportunities for cross examination of the management witnesses, and for his defence in the enquiry proceeding. The finding of the enquiry is totally one sided and against the principle of natural justice. It is alleged that neither treatments papers nor any fitness certificate was produced. The enquiry report mentions his absence from duty since 1st March on account of his mental illness. In spite of the charge sheet unsatisfactory, his dismissal order was passed for the charge of misconduct under clause 26.1.2001. of the Certified Standing Order. His mercy Appeal was refused by the G.M. concerned without assigning any reason. As such the dismissal order was entirely illegal, arbitrary, unjustified and contrary to the norms of natural justice.

3. The Union in its supplementary-cum-rejoinder on 13.4.2005 to the written statement dt. 6.11.2002 of the managements has categorically denied the allegation of the management, and stated that the death of the workman would not abate the reference in eye of laws which is entirely maintainable.

4. Whereas the case of the Opp./Management concerned is that the present reference is unmaintainable, the workman was working as a Wagon Loader at Ram Kanali Colliery, but he absented from his duty from 11.3.1993 without any information or permission from the management, he did not produce any paper of his treatment or any information to the management on time. As the workman was a habitual absentee, he was issued the charge sheet dt. 12.4.1993 for his habitual absenteeism. When his reply to the charge sheet was found unsatisfactory, the departmental enquiry was fairly and in accordance with the norms of natural justice, conducted by Shri S.N. Dubey as the appointed Enquiry Officer, and therein the workman fully participated and was given full opportunity to cross examine the management witnesses, and to produce his evidences, but the workman never complained of the enquiry to the management. After the enquiry, the enquiry officer held the charge against the workman undoubtedly proved, so the workman on the approval of the competent authority was dismissed from the service as per the letter dt. 5/6.11.1996, the had previously put in his only 57 days attendance in the year 1993 and Nil attendance in the year 1994-95. So any punishment lesser than the dismissal would cause indiscipline amidst other employees affecting production of Coal and great loss to the Company.

5. Denying categorically the allegations of the union as baseless in its rejoinder dt. 15.9.2003, the Opp./Management has stated that in view of the said facts, the action of the management in his dismissal is legal and justified.

FINDING WITH REASONING

6. In the instant reference case, at no challenge of the workman to the fairness and propriety of the domestic enquiry the Tribunal as per its order no.21 dt.5.10.2005 held the enquiry to have been done towards the workman fairly, properly and according to the principle of natural justice.

Therefore on account of death of the workman pendent lite (during the pendency of the case) petitioner Sri Sukhen Kumar, son of the Late workman on his petition was substituted for his father as per the Order No. 18 dt.23.2.2004 of the Tribunal. As result, the case directly came up for hearing the argument of both the parties on merits.

Mr. N. M. Kukamr, the Learned Counsel for the Union, submits that the workman (now dead) was a permanent employee of M/s BCCL as Miner Loader at Ram Kanali Colliery under Katras Area, but due to mental treatment at the Central Hospital, Dhanbad for his mental disorder from 11.3.93 to 28.6.96, he got absent from 11.3.1993, though its information was regularly being given to the management, he was illegally dismissed from his service on the alleged charges of unauthorized absentism which was quite illegal and unjustified. But in the instant case, the status of the late workman as permanent M/Loader of the colliery is unpleaded.

Whereas the contention of Mr. D.K. Verma, the Learned Advocate for the O.P./Management is that the workman was a habitual absentee, who admittedly absented from his duty, so after due departmental enquiry he was legally dismissed as punishment for his misconduct of absentism.

7 On the perusal of the materials available on the case record, I find the following facts:

- (i) It is indisputable fact that the workman a Wagon M/Loader of Ram Kanali Colliery, unauthorisedly absented from his duty from 11.3.1993, for which he was charge sheeted for his misconduct.
- (ii) It is evident from the enquiry report (Ext.M.6) that the Opp./Management was regularly informed of his medical treatments at the Central Hospital, Dhanbad, for his mental disorder of long time (upto 28.6.1996)
- (iii) Despite his record of his attendance 57 days in 1993 and Nil in the years 1994-95 as evidently separately noted on the left side of the Enquiry Report, the proceeding has no proof of Second Show Cause by the Opp. Management to the workman for his insistent dismissal punishment for his misconduct of absentism.

- (iv) In view of the aforesaid facts, the dismissal of the workman was undoubtedly quite disproportionate to his misconduct, and unjustified. Were the workman alive, he would have been awarded with lesser punishment such as deduction of one increment other than his absolute dismissal for his proved misconduct under the provision of sec. 11 A of the Industrial Dispute Act. So, the dismissal punishment awarded by the opp. management to the workman for his misconduct of absentism under clause 26.1.1 appears to be liable for setting aside.

Under these circumstances, it is in terms of the reference, hereby:

ORDERED

That the action of the Management of Ram Kanali Colliery of M/s BCCL in dismissing Bidhishan (Bibhishan Kumar) M/Loader from the service of the Company, w.e.f.5/6.11.1996 only on the ground of DII unauthorized absence from 1993 is legally unjustified. Since the workman expired on 22.10.2002 during the enquiry reference, otherwise he would have been reinstated in his service without back wages for his In his pendent lite death purely prior to his superannuation, his son Sukhen Kumar Hukice of his deceased father shall be entitled to employment as his dependant and all the his father's service for the interest of his other heirs under rules of the Certified BCCL.

KISHORI RAM, Presiding Officer

नई दिल्ली, 21 अगस्त, 2013

कांआ 1976.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार जनरल मैनेजर, मैसर्स अशोक होटल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं 1, नई दिल्ली के पंचाट (संदर्भ संख्या 26/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.07.2013 को प्राप्त हुआ था।

[सं एल-42011/119/2011-आईआर(डीयू)]

सोम नाथ, अनुभाग अधिकारी

New Delhi, the 21st August, 2013

S.O. 1976.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 26/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the industrial dispute between The General Manager, M/s. Ashok Hotel and their workman, which was received by the Central Government on 29.07.2013.

[No. L-42011/119/2011-IR(DU)]

SOM NATH, Section Officer

ANNEXURE**BEFORE DR. R. K. YADAV, PRESIDING OFFICER,
CENTRAL GOVT. INDUSTRIAL TRIBUNAL NO. 1,
KARKARDOOMA COURTS COMPLEX : DELHI****I.D. No. 26/2012**

The President,
Ashok Hotel Mazdoor Janta Union (HMS),
C-48-49, Ashok Hotel Staff Qtr.
50-B, Chanakyapuri,
New Delhi - 110021.

...Workmen

VERSUS

The General Manager,
M/s Ashok Hotel,
50-B Chanakyapuri,
New Delhi - 110021.

...Management

AWARD

A demi-chef-de partie was found consuming liquor in kitchen of Ashok Hotel (in short the hotel) on 11.05.2007 at about 17.45 hours. An empty quarter bottle of Aristocrat Premium whisky was recovered from his possession. He was taken to the office of the Chief Security Officer, where panel doctor of the hospital was called. He was examined by the panel doctor, who found him under influence of liquor and not in self possession. Since his gait was lurching, he was escorted to his residence by an employee of the hotel. Charge sheet was served upon him on 30.05.2007. He submitted reply to the said charge sheet, which was found not to be satisfactory. Enquiry Officer was appointed, who conducted a domestic enquiry. On consideration of the enquiry report, the Disciplinary Authority awarded punishment of stoppage of two annual increments with cumulative effect to the demi-chef-de partie, *vide* order dated 05.09.2009. His appeal was dismissed by the Appellate Authority. He approached the Ashok Hotel Mazdoor Janta Union (in short the union) who took up his cause as their own. The union raised an industrial dispute before the Conciliation Officer. Since the hotel contested the claim, conciliation proceedings ended into a failure. On consideration of failure report, submitted by the Conciliation Officer, the appropriate Government referred the dispute to this Tribunal for adjudication, *vide* order No.L-42011/119/2011-IR(DU), New Delhi dated 23.01.2012 with following terms:

"Whether action of the management of Ashok Hotel in stopping two annual increments with cumulative effect *vide* order dated 05.09.2009 to Shri Shyam Sunder Goswami S/o Shri Hari Das Goswami, demi-chef-de partie, token No.4464 is legal and justified. What relief the workman is entitled to?"

2. Claim statement was filed by the demi-chef-de partie, namely, Shri Shyam Sunder Goswami pleading

therein that he was working with the hotel since 1988. He was promoted by the hotel from time to time. Workmen staff of the hotel is governed by Certified Standing Orders (herein after referred as the Standing Orders). He was charge sheeted on 30.05.2007, which was replied by him *vide* letter dated 29.06.2007. On consideration of his reply, the hotel appointed Shri Suresh Chander. Engineer, as Enquiry Officer. The Enquiry Officer conducted enquiry according to his sweet will, without giving fair opportunity to him to defend himself. He submitted his report on 22.06.2009, after a gap of two years. The General Manager of the hotel served a show cause notice on him on 31.07.2009, calling upon him to explain as to why his two annual increments may not be stopped with cumulative effect. He replied the show cause notice *vide* letter dated 07.08.2009. Without taking into account facts submitted by him in his reply, his two annual increments were stopped with cumulative effect *vide* order dated 05.09.2009. The said order is violative of the Standing Orders. He preferred an appeal, which was dismissed on 29.09.2010. He claims that the punishment order, being violative of Standing Orders, may be set aside and the hotel may be commanded to release his annual increment, stopped pursuant to order dated 05.09.2009.

3. Claim has been demurred by the hotel pleading that the claimant consumed liquor while on duty and thus committed serious act of misconduct. Charge sheet was served on him on 30.05.2007. His reply to the said charge sheet was found not to be satisfactory. Shri Suresh Chander, Engineer, was appointed as Enquiry Officer. The Enquiry Officer gave full opportunity to the claimant to defend himself. Claimant was allowed to cross examine the witnesses examined by the hotel and to produce evidence in his defence. The Enquiry Officer recorded findings against the claimant. The Disciplinary Authority served a show cause notice, calling upon him to explain as to why proposed punishment of stoppage of two annual increments may not be awarded with commulative effect. His reply to the show cause notice was taken into consideration and thereafter punishment of stoppage of two annual increments with cumulative effect was awarded to him. His appeal also came to be dismissed. The hotel had not violated any provisions of the Standing Orders. Claim presented by the claimant is liable to be dismissed being untenable, pleads the hotel.

4. On pleadings of the parties, following issues were settled:

- (1) Whether enquiry conducted by the management was fair and proper?
- (2) Whether punishment awarded to the claimant commensurate to his misconduct?
- (3) As in terms of reference.

5. Issue relating to virus of the enquiry was treated as preliminary issue. Claimant examined himself as well as Shri S.S. Upadhyay on the preliminary issue. Shri Suresh Chandra, Enquiry Officer, entered the witness box to testify facts. On consideration of evidence adduced by the parties as well as submissions made by them at the bar, preliminary issue was answered in favour of the hotel and against the claimant, vide order dated 25.02.2013.

6. Arguments were heard at the bar. Shri S.S. Upadhyay, authorized representative, advanced arguments on behalf of the claimant. None came forward to raise submissions on behalf of the hotel. I have given my careful considerations to the arguments advanced at the bar and cautiously perused the record. My findings on issues involved in the controversy are as follows:

Issue No. 2

7. As projected, claimant was found consuming liquor in kitchen of the hotel on 11.05.2007 at about 17.45 hours. He was examined by the panel doctor of the hotel, who found him under the influence of liquor and not in his self possession, the claimant consumed liquor and was found in inebriated state soon after his duty hours. Considering his misconduct, charge sheet was served upon him, contents of which are reproduced thus:

"It has been reported against you that, at about 17.45 hours on 11.05.2007, while performing your duty from 9.00 a.m. to 5 p.m., you were found creating nuisance after consuming alcohol in the main kitchen of the hotel. A bottle of 180 ml. Aristocrat Premium whisky liquor (half consumed) and a Harpic Power Toilet Cleaner (500 ml.) were found in your possession. Immediately, you were brought to the Office of the Corporate Senior Executive, Chef Shri M.S. Gupta. Corp. Sr. Executive Chef brought the whole incident to the notice of Chief Security Officer telephonically. The Chief Security Officer deputed Shri B.K. Arya, DSO, Shri Lohit Joshi, Management Trainee (V&S), Shri S.C. Rana, Security Supervisor and Shri Deshraj, Security Guard to go to the office of Corporate Sr. Executive Chef, where they found you under the influence of alcohol. You along with the bottle of 180 ml. Aristocrat Premium Whisky liquor (half consumed) and a Harpic Power (toilet cleaner 500 ml.) were brought the office of the Chief Security Officer. The whole incident was reported to the Chief Security Officer (CSO) by the Duty Officer, Shri B.K. Arya, telephonically as the CSO was busy in the VVIP visit of the Hon'ble President of India at the Convention Hall of the hotel. As per instructions of the Chief Security Officer, Lobby Manager was asked to call Dr.(Smt.) Anita Pal (on panel) for your medical examination. At about 18.50 hours, Dr. (Smt.) Anita Pal arrived in the hotel and conducted your medical examination in the presence

of Shri D.K. Arya, DSO, Shri Lohit Joshi, Management Trainee (V&S), Shri S.C. Rana, Security Supervisor and Shri Deshraj, Security Guard. As per her medical certificate, you were found unable to understand the commands, your gait was lurching, not able to maintain your balance and your breathe was smelling of alcohol. During your medical examination, you, in the presence of Shri D.K. Arya, DSO, Shri Lohit Joshi, Management Trainee (V&S), Shri S.C. Rana, Security Supervisor and Shri Deshraj, Security Guard, also admitted of having consumed liquor in the hotel premises. However, you not only refused to give your statement relating to the incident, but also denied to give your signatures on the medical certificate issued by the above doctor as well as on the apprehended liquor bottle. After completion of your medical examination, since you were in a drunken state and even not in a position to walk, a staff car was arranged to drop you safely in your home and Shri Dharmendra, Trainee Main Kitchen, in this regard, was deputed to accompany you.

2. The above acts of yours constitute misconduct and have been viewed seriously by the management of Ashok Hotel, New Delhi, under the Certified Standing Order (Modified) of Ashok Hotel as applicable to you. You are, therefore, charged for the following acts of misconduct alleged to have been committed by you under Section 14(I), 14(IX), 14(XLIX), 14(L) and 14(LXVII) of the Certified Standing Orders (Modified) of Ashok Hotel:

- | | |
|-----------|--|
| 14(I) | Wilful insubordination or disobedience, whether alone or in combination with another or others, of any lawful and reasonable order of a superior. |
| 14(IX) | Commission of any act subversive of discipline or good behaviour within the establishment or outside. |
| 14(XLIX) | Drunkenness, riotous, disorderly or indecent behaviour during working hours at the establishment, or any act subversive of discipline or good behaviour within the establishment and all other acts prejudicial to the interest and reputation of the hotel. |
| 14(L) | Abetment or attempts to commit any of the above acts/omissions constituting misconduct. |
| 14(LXVII) | Possession or use of any intoxicating liquors, drugs, narcotics, while in the premises of the hotel." |

8. The Enquiry Officer gave full opportunity to the claimant to defend himself. He appreciated evidence adduced by he Hotel, besides testimony of the claimant

and recorded findings against him. He concludes as follows:

"Shri Shyam Sunder Goswami, CSE was found creating nuisance at the place of posting in Main Kitchen and the same was confirmed by Shri Inder Dutt, Executive Chef, MW-1 through his evidence recorded on 11.05.2000 that Shri Arvind Rai, Chef reported the matter to him that Shri Goswami, CSE was in a drunken state and refused to do work. Shri Inder Dutt, MW-1 personally went there and saw the CSE in a drunken state. At that time, a bottle of 180 ml. Aristocrat Premium Whiskey liquor (half consumed) and a Harpic Power (Toilet Cleaner 500 ml.) was found in his possession. Immediately the matter was reported to Corporate Sr. Executive Chef Shri M.S. Gupta. Through his evidence, Shri M.S. Gupta, MW-7 confirmed that, at about 6.00 p.m. Shri Goswami, CSE, who reported to be in a drunken state, was brought to his office. He (MW-7) advised the Executive Chef to refer the matter to V&S Department for further action.

There is no dispute that Sh.Goswami, CSE, along with a bottle of 180 ml Aristocrat Premium Whiskey liquor (half consumed) and a Harpic Power (Toilet Cleaner 500 ml), were brought to the office of Chief Security Office at 2nd floor by the Security Personnel S/Sh.Shakti Singh Rana, MW-2, Desh Raj, MW-3, and Sh.Lohit Joshi, MW-5, which confirmed through their documentary as well as oral evidences recorded through enquiry proceedings. At about 1810, Sh.Lohit Joshi, MW-5 asked the Labby Manager over telephone to call panel doctor for medical examination of Sh.Goswami, CSE. At around 1835, Dr.Anita Pal, Panel Doctor, carried out the medical examination of the CSE and submitted his Medical Report dated 11.05.2007 (Ex.M-11), which confirmed "ALCOHOL CONSUMPTION". As per his Medical Report dated 11.05.2007 (Ex.M-11), it is certified that Sh.Goswami, CSE was not able to understand the commands. His gait was lurching and was not able to maintain his balance. His breath was smeling of alcohol. He admitted consuming quarter of alcohol. The Management has established that the medical examination of Sh.Goswami, CSE was conducted by Dr.Anita Pal, Panel Doctor in the presence of S/Sh.B.K.Arya, DSO, MW-4, Lohit Joshi, Management Trainee (V&S), MW-5, Shakti Singh Rana, Security Supervisor, MW-2 and Desh Raj, Security Guard, MW-3. During the enquiry proceedings, the defence did not deny that his medical examination was carried out by Dr.Anita Pal. Hence, it is a matter of no dispute that his medical examination was carried out by Dr.Anita Pal and as per his medical report it was established that the CSE was under the influrnece of alcohol".

"On the basis of documents filed, witness produced and the above discussion, charges levelled against Shri Shyam Sunder Goswami, Demi-chef-de partie, Gd.I, Token No.4469, vide charge sheet No.PB-

15(121)/4469 dated 30.05.2007, stands PROVED. However, the contention of the defence that there is no other complaint against the CSE merits consideration by the Competent Authority as during the enquiry, CSE was co-operative and well behaved."

9. With a view to come out of the trauma, the claimant agitates that provisions of the Standing Orders, proved as Ex.MW1/W1, were violated. His thrust of contention has been that as per section 16 of the Standing Orders, charge sheet is to be served upon the delinquent employee within 30 days and enquiry is to be completed within six months from the date of issue of charge sheet. Shri Upadhyay argued that the Enquiry Officer had taken two years in conclusion of the enquiry. He asserts that since section 16 of the Standing Orders has been violated, entire proceedings stood washed off. In order to appreciate submissions made by Shri Upadhyay, it is expedient to have glance on relevant portion of section 16 of the Standing Orders, which is reproduced thus:

'If a punishment under Sub-Section IV to VIII of Section 15 above is to be awarded, the workman concerned should be served with a charge sheet within 30 days and enquiry will be completed within six months from the date of issuing charge sheet and an enquiry as set out in sub-para III below must be held.'

10. As detailed above, the Standing Orders constrains the employer to serve charge sheet on a delinquent official within 30 days. It has been also stipulated therein that the enquiry will be completed within six months from the date of issuance of the charge sheet, which enquiry should be held as per procedure, provided in sub-para (III) of the said section. As far as fairness of the procedure of the enquiry is concerned, the Tribunal had recorded facts against the claimant. Now, it would be ascertained as to whether delay in conclusion of the enquiry vitiates the proceedings. For an answer, it is to be ascertained whether period of six months, provided for completion of the enquiry, is mandatory one. The answer lies in negative. Phrase 'enquiry will be completed within six months' used in para (ii) of section 16 of the Standing Orders on its construction makes it apparent that the above phrase is directory and not mandatory. If a provision is mandatory, an act done in breach thereof will be invalid but if it is directory, the act will be valid although the non-compliance may give rise to some other penalty if provided by the statute. The use of word 'shall' raises a presumption that the particular provision is imperative, but this prima facie inference may be rebutted by other considerations such as object and scope of the enactment and the consequences flowing from such construction. There are numerous cases where the word 'shall' has, therefore, been construed as merely directory. See *Shew Bux Mohata* (AIR 1961 SC 1453), *Hazari Mal Kuthiala* (AIR 1961 SC 200),

Banarsi Das (AIR 1963 SC 1417), Raza Buland Sugar Co. Ltd. (AIR 1965 SC 895), Azad Bharat Finance Co. (AIR 1967 SC 276), Krishna Kumar Mediratta (AIR 1979 SC 984), Ganesh Prasad Shah Kesari (AIR 1985 SC 964), Paradise Printers (AIR 1988 SC 354) and Rubber House (AIR 1989 SC 1160).

11. The word 'shall' is ordinarily mandatory, but it is sometimes not so interpreted if the context or intention otherwise demands. The court may ascertain the real intention of the legislature by carefully attending to the whole scope of the statute. When provisions of section 16 of the Standing Orders are construed in the light of above precedents, it emerges that the above provisions imposes a duty on the hotel to serve a charge sheet on a delinquent employee and to conduct a domestic enquiry, when the latter commits a misconduct. A time frame is also given therein within which a charge sheet is to be served and domestic enquiry to be concluded. In case of rigid adherence to the time frame, given for service of charge sheet and conclusion of the enquiry, injustice or inconvenience would result. Delinquent employee may adopt dilatory tactics or misconduct may be detected after a long delay. Consideration of these aspects make it apparent that time frame, indicated in para (ii) of section 16 of the Standing Orders, is directory and not mandatory. Precedent in *Urbanowski* [1976 (1) All.E.R. 697] give support to above construction wherein it has been ruled that where a public officer is directed by a statute to perform a duty within a specified time, the cases establish that provision as to time are only directory. Similarly, it has been held while construing section 17(1) of the Industrial Disputes Act, 1947 that it is obligatory on the Government to publish an award, but the provision, that it should be published within thirty days, is not mandatory and an award published beyond 30 days is not invalid. Also see *Remington Rand of India* (AIR 1968 SC 224), *Manzoor Khan* (AIR 1973 SC 2548) and *Karnal Leather Karamchari Sangthan* (AIR 1990 SC 247).

12. Above reasons give support to the construction that para (ii) of section 16 of the Standing Orders is not mandatory and delay in conclusion of the enquiry would not vitiate report of the Enquiry Officer. The claimant made a frivolous claim to the effect that on account of delay in conclusion of the enquiry punishment awarded by the Disciplinary Authority stood vitiated. Contention raised in that regard is brushed aside.

13. Section 14 (VIII) of Ex.MW1/W1 highlights that drunkenness, fighting, riotous, disorderly or indecent behavior within the establishment of the hotel has been coined as misconduct. Drunkenness, riotous, disorderly or indecent behavior during working hours at the establishment or any act subversive of discipline or good behavior within the establishment and all other acts prejudicial to the interest and reputation of the hotel have

also been coined as acts of misconduct under section 14(LXIX) of the Standing Order Ex.MW1/W1. The hotel may award minor major punishment for acts of misconduct, depending upon its gravity, such as : (i) warning, (ii) fine (not exceeding three paise for every rupee of the basic salary), and (iii) recovery to the full extent of actual amount of loss caused to the company.

14. When an employee commits grave misconduct, the hotel may award major punishment to him. Although there is no codified law prohibiting an employer from inflicting any major punishment, yet the industrial adjudicator has to assess as to whether the misconduct, proved against the delinquent employee, could be visited with the penalty. Major punishment which can be awarded to a delinquent employee are:

- (i) Withholding of increments for any specific period with or without cumulative effect,
- (ii) Demotion to a lower post, lower grade, lower place in the scale of pay or lower scale of pay,
- (iii) Termination of service,
- (iv) Discharge from service,
- (v) Dismissal from service"

15. As projected in the report of the Enquiry Officer, claimant consumed alcohol in the kitchen of the hotel. He was found in inebriated state soon after his duty hours. Therefore, his act of misconduct falls within section 14(VIII) and 14 (XLIX) of the Standing Orders Ex.MW1/W1. He consumed liquor in the premises of the hotel. A farm labour may perform his duties efficiently, inspite of intoxication and his intemperance may not justify major penalty. But in a highly organized business with large staff an inebriated employee is likely to come in contact with several persons. His intoxication would be noticeable to others and affect his employer's business adversely. Such an employee would interfere in discharge of duties of other staff. These factors make it apparent that the act of being in drunken state at the premises of employer constitutes a serious misconduct. Even otherwise such an act is subversive of discipline also, since his conduct shows contempt of prevailing rules and disrespect to the authority.

16. Stoppage of two increments with cumulative effect means that the claimant would not get increment during the period of two years in future also and loss of pay will ensure for whole of the remaining tenure of the employee affecting his pension on retirement. Withholding of increment with cumulative effect is different from simply withholding increment and is a major penalty. The penalty awarded to the claimant commensurate to the act of misconduct committed by him. As projected above, he was found in an inebriated state in the kitchen soon after his duty hours. Half employ quarter bottle of whisky was found in his possession besides a Harpic Power (toilet

cleaner). These facts are indicative that either he started consuming liquor during his duty hours or soon thereafter. He did not leave his work place and consumed liquor there itself. All these facts, complied with the surrounding circumstances, make it apparent that punishment awarded to the claimant cannot be termed excessive. It commensurate to the misconduct committed by him. The issue is, therefore, answered in favour of the hotel and against the claimant.

Issue No. 3

17. Relief is claimed projecting that the punishment awarded to the claimant was discriminative. Shri Upadhyay argued that the claimant has been discriminated by the hotel in the matter of award of punishment. To project his point of view, he has relied on charge sheet ExWW1/4 served upon one Shri Bhagwan Dass, besides order of his punishment, which is Ex.WW2/8. As emerge out of ExWW1/4, Shri Bhagwan Das was working as store keeper, uniform store of the hotel. He bolted the store from inside on 17.06.2009 at 13.00 hours and allowed Shri Prakash to consume liquor there. Thus it is evident that Shri Bhagwan Dass facilitated Shri Prakash to consume liquor, during duty hours. He, himself, had not consumed any liquor. Misconduct committed by Shri Bhagwan Dass was of facilitating someone in consumption of liquor. It was different than the misconduct committed by the claimant. Therefore, punishment awarded to Shri Bhagwan Dass would not come as an illustration in the matter. The claimant cannot claim parity with Shri Bhagwan Dass in the matter of punishment.

18. Ex.WW1/4 also highlights that Shri Prakash, Utility Worker, consumed liquor inside the uniform store on 17.06.2009. When charge sheet was served on Shri Prakash, he admitted his guilt and requested for a lenient view. Utility Worker was away from his duty place at the time of consumption of liquor. He showed feeling of remorse and pleaded his guilt. He did not attempt to forge a defence for his acts. He expressed regrets and assured improvement of his conduct in future. Furthermore he was not found under influence of liquor and loss of self possession. Thus mere fact that lesser punishment was awarded to Shri Prakash while punishment of stoppage of two annual increments with cumulative effect was awarded to the claimant would not by itself show discrimination in punishment.

19. Records tell that when the claimant consumed liquor in the kitchen and went in the state of inebriation, Hon'ble President of India was to visit Convention Hall of the hotel at that time. Such a misconduct at the time of visit of V.V.I.P. in the hotel makes the misconduct more alarming. The fact that the gait of the claimant was lurching project that he was not in self possession. These facts make it apparent that the degree of misconduct, committed by the claimant, was the gravest while misconduct committed by

Shri Prakash was condonable. Hence the claimant could not show any parity in misconduct committed by him and Shri Prakash to show discrimination in punishment, awarded to him. Resultantly, submissions made by Shri Upadhyay are found to be unacceptable.

20. Punishment awarded to the claimant is found to be just and proper. No illegality is noticed in the action of the hotel, justifying interference by the Tribunal. The above reasons make me to comment that punishment awarded to the claimant was in consonance with the Standing Orders Ex.MW1/W1. Claimant is not entitled to any relief. An award is passed in favour of the hotel and against the claimant. It be sent to the appropriate Government for publication.

Dated : 9-7-2013

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 21 अगस्त, 2013

का०आ० 1977.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स भारती एअर टेल सर्विस लि० एंड अर्दस के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं-1, नई दिल्ली के पंचाट (संदर्भ संख्या 73/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.07.2013 को प्राप्त हुआ था।

[सं० एल-40011/43/2011-आईआर(डीयू)]
सोम नाथ, अनुभाग अधिकारी

New Delhi, the 21st August, 2013

S.O. 1977.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 73/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 1 New Delhi as shown in the Annexure, in the Industrial dispute between The M/s. Bharti Airtel Services Ltd. and others and their workman, which was received by the Central Government on 29.07.2013.

[No. L-40011/43/2011-IR(DU)]
SOM NATH, Section Officer

ANNEXURE

**BEFORE DR. R.K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO.1, KARKARDOOMA COURTS COMPLEX, DELHI**

ID No.73/2012

Shri Rajiv Khanna,
S/o Shri Rajesh Kumar Khanna,
Senior Technician,
C/o All India General Mazdoor Trade Union,
170, Bal Mukund Khand Giri, Kalkaji,
New Delhi – 110 010 ...Workman/Claimant

Versus

- (1) M/s. Bharti Airtel Services Limited 224, Okhla Industrial Estate, Phase III, New Delhi 110 020

Also at
Plot No.16, Udyog Vihar,
Phase IV, Gurgaon, Haryana 122 002

...Management No.1

- (2) M/s. Alcatel-Lucent Network Management Services Ltd., 15th Floor, Tower C, DLF Cyber Green DLF City, Phase III, Gurgaon, Haryana 122 002

....Management No.2

AWARD

A Senior Technician, who was given a glorified designation of an Officer, joined services with M/s. Bharti Airtel Services Ltd. (hereinafter referred to as management No.1) on 05.03.2007. He served management No.1 till 31.07.2009, the date when he tendered his resignation. His resignation was accepted by management No.1 on that very day and wages for the month of July 2009 as well as some amount towards full and final settlement was given to him. Thereafter, he joined services with M/s. Alcatel Lucent Network Management Services Pvt. Ltd. (in short the management No.2) on 01.08.2009. However, he raised a dispute before the Conciliation Officer claiming that his services were terminated by management No.1 in an illegal manner. Since his claim was contested, conciliation proceedings ended into a failure. On consideration of failure report, submitted by the Conciliation Officer, the appropriate Government referred the dispute to the Central Government Industrial Tribunal No.2, New Delhi, for adjudication *vide* order No. L-40011/43/2011-1R(DU) New Delhi dated 10.02.2012 with following terms:

"Whether the action of the management of Bharti Airtel Services Ltd. in terminating services of Shri Rajiv Khanna, S/o Shri Rajesh Kumar Khanna, ex-Senior Technician with effect from 01.08.2009 is legal and justified. What relief the workman is entitled to?"

2. In the reference order, the appropriate Government commanded the Parties to the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions, so given, the Senior Technician, namely, Shri Madan Singh opted not to file his claim statement with the Tribunal.

3. Notice was sent to Shri Rajiv Khanna by registered post on 05.03.2012, calling upon him to file claim statement before the Tribunal on or before 09.04.2012. This notice was sent to him through All India General Mazdoor Trade Union, 170, Bal Mukund Khand Giri, Kalkaji, New Delhi,

the address provided by the appropriate Government in order of reference.

4. Since none came forward on behalf of the claimant to file his claim statement, fresh notice was sent to him by registered post on 15.05.2012 calling upon him to file claim statement before the Tribunal on 06.09.2012. Another notice was transmitted to the claimant by registered post on 06.09.2012 asking him to file his claim statement on or before 17.12.2012.

5. *Vide* notification No.A-11016/3/2009-CLS-II, New Delhi dated 03.04.2013, additional charge of the post of the Presiding Officer, Central Government Industrial Tribunal No.II, New Delhi, was assigned to the undersigned by the appropriate Government and thus the case reached this Tribunal for adjudication.

6. Notice dated 11.05.2013 was sent by registered post commanding the claimant to file his claim statement before the Tribunal on or before 28.06.2013. Neither the postal article was received back nor was it observed by the Tribunal that postal services remained affected from 11.05.2013 till 28.06.2013. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of this notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf.

7. Order of reference projects a question as to whether action of M/s. Bharti Airtel Services Ltd. in terminating services of Shri Rajiv Khanna with effect from 01.08.2009 is legal and justified? Onus is there on management No.1 to project that its action of terminating services of Shri Rajiv Khanna was legal and justified. Consequently, management No.1 was called upon to file its response to the reference order. In pursuance of the directions so issued, management No.1 filed its response to the reference order.

8. When response, so filed, is perused, it emerged that Shri Rajiv Khanna joined services with management No.1 on 05.03.2007 with a glorified designation of an Officer. Shri Rajiv Khanna served management No.1 till July 2009. He tendered his resignation, which was accepted by management No.1 on 31.07.2009. His wages amounting to Rs.6036.00 were paid. Besides wages, a sum of Rs.5879.00 was also paid to the claimant towards leave encashment. After getting his dues, claimant left services of management No.1. He joined management No.2 on 01.08.2009. His basic salary, which he is getting from management No.2, is Rs.5256.00, besides house rent allowance of Rs.3403.00, conveyance allowance of Rs.800.00 and special allowance of Rs.3944.00. Thus, he gets a sum of Rs.13715.00 from management No.2, which is higher than the wages which he was getting from management No.1. It is evident that Shri Rajiv Khanna resigned the job of management No.1 in search of greener pastures. It is apparent that management

No.1 has not taken any steps to terminate services of Shri Rajiv Khanna.

9. As unfolded by management No.2, the claimant was appointed by them on 01.08.2009. It is further projected that he is still in employment with them. The management No.2 further presents that its name has been changed to M/s Telesonic Network Ltd. with effect from 25.02.2013. Certificate issued by Registrar of Companies has been placed before the Tribunal in that regard. Consequently, it is evident that the management No.2 is the employer of the claimant since 01.08.2009, which fact establishes the stand taken by management No.1.

10. Nothing has been brought over the record by Shri Rajiv Khanna to establish that his services were terminated by management No.1. On the other hand, management No.1 could demonstrate that Shri Rajiv Khanna resigned the job for good. He joined services with management No.2, where he was offered better emoluments. Consequently, it is concluded that management No.1 had not taken any action in terminating services of Shri Rajiv Khanna. It was the employee who tendered his resignation and marched away. Under these circumstances, neither any illegality nor unjustifiability can be noted on the part of management No.1. Shri Rajiv Khanna is, not entitled to any relief. An award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated June 28, 2013

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 21 अगस्त, 2013

कांआ 1978.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स भारती एअर टेल सर्विस लि एंड अर्दस के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं० 1, नई दिल्ली के पंचाट (संदर्भ संख्या 74/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.07.2013 को प्राप्त हुआ था।

[सं० एल-40011/44/2011-आईआर(डीयू)]

सोम नाथ, अनुभाग अधिकारी

New Delhi, the 21st August, 2013

S.O. 1978.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 74/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 1 New Delhi as shown in the Annexure, in the Industrial dispute between The M/s. Bharti Airtel Services Ltd. and others and their workman, which was received by the Central Government on 29.07.2013.

[No.L-40011/44/2011-IR(DU)]

SOM NATH, Section Officer

ANNEXURE

**BEFORE DR. R.K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO.1, KARKARDOOMA COURTS COMPLEX, DELHI**

ID No.74/2012

Shri Madhukar Kumar Chaudhary
C/o All India General Mazdoor Trade Union, 170,
Bal Mukund Khand Giri, Kalkaji, New Delhi — 110 010

Workman/Claimant

Versus

(1) M/s. Bharti Airtel Services Limited
224, Okhla Industrial Estate, Phase III, New Delhi
110 020
Also at
Plot No.16, Udyog Vihar,
Phase IV, Gurgaon, Haryana 122 002

Management No.1

(2) M/s. Alcatel-Lucent Network Management Services
Ltd.,
15th Floor, Tower C, DLF Cyber Green DLF City,
Phase III, Gurgaon, Haryana 122 002

Management No.2

AWARD

A Senior Technician, who was given a glorified designation of a Senior Officer, joined services with M/s. Bharti Airtel Services Ltd. (hereinafter referred to as management No.1) on 12.02.2007. He served management No.1 till 17.02.2011, the date when he tendered his resignation. His resignation was accepted by management No.1 on that very day and wages for the month of February 2011 as well as some amount towards full and final settlement was given to him. He raised a dispute before the Conciliation Officer claiming that his services were terminated by management No.1 in an illegal manner. Since his claim was contested, conciliation proceedings ended into a failure. On consideration of failure report, submitted by the Conciliation Officer, the appropriate Government referred the dispute to the Central Government Industrial Tribunal No.2, New Delhi, for adjudication *vide* order No.L-40011/44/2011-1R(DU) New Delhi dated 10.02.2012 with following terms:

'Whether the action of the management of M/s. Bharti Airtel Services Ltd., New Delhi in terminating services of Shri Madhukar Kumar Chaudhary, S/o Shri Sudhir Kumar Chaudhary, ex-Sr. Technician with effect from 17.02.2011 is legal and justified? What relief the workman is entitled to?'

2. In the reference order, the appropriate Government commanded the parties to the dispute to file statement of claim, complete with relevant documents, list of reliance

and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to opposite parties involved in the dispute. Despite directions, so given, the Senior Technician, namely, Shri Madhukar Kumar Chaudhary opted not to file his claim statement with the Tribunal.

3. Notice was sent to Shri Madhukar Kumar Chaudhary by registered post on 14.03.2012, calling upon him to file claim statement before the Tribunal on or before 09.04.2012. This notice was sent to him through All India General Mazdoor Trade Union, 170, Bal Mukund Khand Giri, Kalkaji, New Delhi, the address provided by the appropriate Government in order of reference.

4. Since none came forward on behalf of the claimant to file his claim statement, fresh notice was sent to him by registered post on 15.05.2012 calling upon him to file claim statement before the Tribunal on 06.09.2012. Another notice was transmitted to the claimant by registered post on 06.09.2012 asking him to file his claim statement on or before 17.12.2012.

5. *Vide* notification No.A-11016/3/2009-CLS-II, New Delhi dated 03.04.2013, additional charge of the post of the Presiding Officer, Central Government Industrial Tribunal No.II, New Delhi, was assigned to the undersigned by the appropriate Government and thus the case reached this Tribunal for adjudication.

6. Notice dated 11.05.2013 was sent by registered post commanding the claimant to file his claim statement before the Tribunal on or before 28.06.2013. •Neither the postal article was received back nor was it observed by the Tribunal that postal services remained affected from 11.05.2013 till 28.06.2013. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of this notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf.

7. Order of reference projects a question as to whether action of M/s Bharti Airtel Services Ltd. in terminating services of Shri Madhukar Kumar Chaudhary with effect from 01.08.2009 is legal and justified? Onus is there on management No.1 to project that its action of terminating services of Shri Madhukar Kumar Chaudhary was legal and justified. Consequently, management No.1 was called upon to file its response to the reference order. In pursuance of the directions so issued, management No.1 filed its response to the reference order.

8. When response, so filed, is perused, it emerged that Shri Madhukar Kumar Chaudhary joined services with management No.1 on 12.02.2007 with a glorified designation of a Senior Officer. Shri Madhukar Kumar Chaudhary served management No.1 till 17.02.2011. He tendered his resignation, which was accepted by

management No.1 on 17.02.2011. His wages amounting to Rs.11309.00 were paid. Besides wages, a sum of Rs.61616.00 was paid as other allowance, Rs.8033.00 as pay in lieu of notice and Rs.16735.00 were paid to the claimant towards leave encashment. After getting his dues, claimant left services of management No.1, for good.

9. It has been pleaded by management No.2, the claimant never served them in any capacity. It has been made a party to the dispute in order to extort illegal gains from Management No.1. Management No.2 further presents that its name has been changed to M/s. Telesonic Network Ltd. with effect from 25.02.2013. Certificate issued by Registrar of Companies has been placed before the Tribunal in that regard.

10. Nothing has been brought over the record by Shri Madhukar Kumar Chaudhary to establish that his services were terminated by management No.1. Hence, it is concluded that management No.1 had not taken any action in terminating services of Shri Madhukar Kumar Chaudhary. On the other hand, it was the employee who tendered his resignation and marched away. Under these circumstances, neither any illegality nor unjustifiability can be noted on the part of management No. 1 Shri Madhukar Kumar Chaudhary is not entitled to any relief. An award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated: June 28, 2013

Dr. R.K. YADAV, Presiding Officer

नई दिल्ली, 21 अगस्त, 2013

काआ 1979.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स भारती एअर टेल सर्विस लि० एण्ड अदर्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं०-1, नई दिल्ली के पंचाट (संदर्भ संख्या 75/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-07-2013 को प्राप्त हुआ था।

[सं० एल-40011/45/2011-आईआर (डीयू)]

सोम नाथ, अनुभाग अधिकारी

New Delhi, the 21st August, 2013

S.O. 1979.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 75/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the Industrial dispute between The M/s. Bharti Airtel Services Ltd. and others and their workman, which was received by the Central Government on 29-7-2013.

[No. L-40011/45/2011-IR (DU)]

SOM NATH, Section Officer

ANNEXURE**BEFORE DR. R.K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO.1, KARKARDOOMA COURTS COMPLEX, DELHI****I.D. No. 75/2012**

Shri Madan Singh,
C/o All India General Mazdoor Trade Union,
170, Bal Mukund Khand Giri, Kalkaji,
New Delhi -110 010

...Workman/Claimant

Versus

- (1) M/s. Bharti Airtel Services Limited, 224, Okhla Industrial Estate, Phase III, New Delhi-110 020

Also at

Plot No.16, Udyog Vihar,
Phase IV, Gurgaon, Haryana-122 002

...Management No.1

- (2) M/s. Alcatel-Lucent Network Management Services Ltd., 15th Floor, Tower C, DLF Cyber Green DLF City, Phase III, Gurgaon, Haryana-122 002

...Management No. 2

AWARD

A Technician, who was given a glorified designation of an Officer, joined services with M/s. Bharti Airtel Services Ltd. (hereinafter referred to as management No.1) on 01.04.2006. He served management No.1 till 31.07.2009, the date when he tendered his resignation. His resignation was accepted by management No.1 on that very day and wages for the month of July 2009 as well as some amount towards full and final settlement was given to him. Thereafter, he joined services with M/s. Alcatel Lucent Network Management Services Pvt. Ltd. (in short the management No. 2) on 01.08.2009. However, he raised a dispute before the Conciliation Officer claiming that his services were terminated by management No.1 in an illegal manner. Since his claim was contested, conciliation proceedings ended into a failure. On consideration of failure report, submitted by the Conciliation Officer, the appropriate Government referred the dispute to the Central Government Industrial Tribunal No. 2, New Delhi for adjudication vide order No. L-40011/45/2011-IR (DU) New Delhi dated 10.02.2012 with following terms:

"Whether the action of the management of M/s. Bharti Airtel Services Ltd., in terminating services of Shri Madan Singh S/o Shri Gopal Singh, ex-Technician with effect from 01.08.2009 is legal and justified. What relief the workman is entitled to?"

2. In the reference order, the appropriate Government commanded the parties to the dispute to file statement of

claim, complete with relevant documents, list of reliance and witnesses with the Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions, so given, the Senior Technician, namely, Shri Madan Singh opted not to file his claim statement with the Tribunal.

3. Notice was sent to Shri Madan Singh by registered post on 14.03.2012, calling upon him to file claim statement before the Tribunal on or before 09.04.2012. This notice was sent to him through All India General Mazdoor Trade Union, 170, Bal Mukund Khand Giri, Kalkaji, New Delhi, the address provided by the appropriate Government in order of reference.

4. Since none came forward on behalf of the claimant to file his claim statement, fresh notice was sent to him by registered post on 15.05.2012 calling upon him to file claim statement before the Tribunal on 06.09.2012. Another notice was transmitted to the claimant by registered post on 06.09.2012 asking him to file his claim statement on or before 17.12.2012.

5. Vide notification No. A-11016/3/2009-CLS-II, New Delhi dated 03.04.2013, additional charge of the post of the Presiding Officer, Central Government Industrial Tribunal No. II, New Delhi, was assigned to the undersigned by the appropriate Government and thus the case reached this Tribunal for adjudication.

6. Notice dated 11.05.2013 was sent by registered post commanding the claimant to file his claim statement before the Tribunal on or before 28.06.2013. Neither the postal article was received back nor was it observed by the Tribunal that postal services remained affected from 11.05.2013 till 28.06.2013. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of this notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf.

7. Order of reference projects a question as to whether action of M/s. Bharti Airtel Services Ltd. in terminating services of Shri Madan Singh with effect from 01.08.2009 is legal and justified? Onus is there on management No.1 to project that its action of terminating services of Shri Madan Singh was legal and justified. Consequently, management No.1 was called upon to file its response to the reference order. In pursuance of the directions so issued, management No.1 filed its response to the reference order.

8. When response, so filed, is perused, it emerged that Shri Madan Singh joined services with management No.1 on 01.04.2006 with a glorified designation of an Officer. Shri Madan Singh served management No.1 till July 2009. He tendered his resignation, which was accepted by

management No.1 on 31.07.2009. His wages amounting to Rs.8246.00 were paid. Besides wages, a sum of Rs.11464.00 was also paid to the claimant towards leave encashment. After getting his dues, claimant left services of management No.1. He joined management No. 2 on 01.08.2009. His basic salary, which he is getting from management No. 2, is Rs. 6404.00, besides house rent allowance of Rs. 3909.00, conveyance allowance of Rs. 800.00 and special allowance of Rs. 5914.00. Thus, he gets a sum of Rs. 17027.00 from management No. 2, which is higher than the wages which he was getting from management No.1. It is evident that Shri Madan Singh resigned the job of management No.1 in search of greener pastures. It is apparent that management No.1 has not taken any steps to terminate services of Shri Madan Singh.

9. As unfolded by management No. 2, the claimant was appointed by them on 01.08.2009. It is further projected that he is still in employment with them. The management No. 2 further presents that its name has been changed to M/s. Telesonic Network Ltd. with effect from 25.02.2013. Certificate issued by Registrar of Companies has been placed before the Tribunal in that regard. Consequently, it is evident that the management No. 2 is the employer of the claimant since 01.08.2009, which fact establishes the stand taken by management No.1.

10. Nothing has been brought over the record by Shri Madan Singh to establish that his services were terminated by management No. 1. On the other hand, management No.1 could demonstrate that Shri Madan Singh resigned the job for good. He joined services with management No. 2, where he was offered better emoluments. Consequently, it is concluded that management No.1 had not taken any action in terminating services of Shri Madan Singh. It was the employee who tendered his resignation and marched away. Under these circumstances, neither any illegality nor unjustifiability can be noted on the part of management No. 1. Shri Madan Singh is not entitled to any relief. An award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 21 अगस्त, 2013

का०आ० 1980.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स भारती एअरटेल सर्विस लि० एण्ड अदर्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं० 1, नई दिल्ली के पंचाट (संदर्भ संख्या 76/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-07-2013 को प्राप्त हुआ था।

[सं० एल-40011/46/2011-आईआर (डी यू)]

सोम नाथ, अनुभाग अधिकारी

New Delhi, the 21st August, 2013

S.O. 1980.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 76/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the Industrial dispute between The M/s. Bharti Airtel Services Ltd. and others and their workman which was received by the Central Government on 29-7-2013.

[No. L-40011/46/2011-IR (DU)]

SOM NATH, Section Officer

ANNEXURE

**BEFORE DR. R.K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO.1, KARKARDOOMA COURTS COMPLEX, DELHI**

I.D. No. 76/2012

Shri Laxmi Kant

C/o All India General Mazdoor Trade Union,

170, Bal Mukund Khand Giri, Kalkaji,

New Delhi-110 010

...Workman/Claimant

VERSUS

- (1) M/s Bharti Airtel Services Limited
224, Okhla Industrial Estate, Phase III,
New Delhi-110 020

Also at

Plot No.16, Udyog Vihar,

Phase IV, Gurgaon, Haryana-122 002

...Management No. 1

- (2) M/s. Alcatel-Lucent Network Management Services
Ltd., 15th Floor, Tower C, DLF Cyber Green DLF City,
Phase III, Gurgaon, Haryana-122 002

...Management No. 2

AWARD

A Senior Technician, who was given a glorified designation of an Officer, joined services with M/s Bharti Airtel Services Ltd. (hereinafter referred to as management No.1) on 11.09.2006. He served management No.1 till 31.07.2009, the date when he tendered his resignation. His resignation was accepted by management No.1 on that very day and wages for the month of July 2009 as well as some amount towards full and final settlement was given to him. Thereafter, he joined services with M/s Alcatel Lucent Network Management Services Pvt. Ltd. (in short the management No.2) on 01.08.2009. However, he raised a dispute before the Conciliation Officer claiming that his services were terminated by management No.1 in an illegal manner. Since his claim was contested, conciliation

proceedings ended into a failure. On consideration of failure report, submitted by the Conciliation Officer, the appropriate Government referred the dispute to the Central Government Industrial Tribunal No.2, New Delhi for adjudication *vide* order No.L-40011/46/2011-IR(DU) New Delhi dated 10.02.2012 with following terms:

"Whether the action of the management of M/s Bharti Airtel Services Ltd., in terminating services of Shri Laxmi Kant S/o Late Shri Baladhutt, ex-Sr. Technician with effect from 01.08.2009 is legal and justified? What relief the workman is entitled to?"

2. In the reference order, the appropriate Government commanded the to the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with the Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions, so given, the Senior Technician, namely, Shri Laxmi Kant opted not to file his claim statement with the Tribunal.

3. Notice was sent to Shri Laxmi Kant by registered post on 14.03.2012, calling upon him to file claim statement before the Tribunal on or before 09.04.2012. This notice was sent to him through All India General Mazdoor Trade Union, 170, Bal Mukund Khand Giri, Kalkaji, New Delhi, the address provided by the appropriate Government in order of reference.

4. Since none came forward on behalf of the claimant to file his claim statement, fresh notice was sent to him by registered post on 15.05.2012 calling upon him to file claim statement before the Tribunal on 06.09.2012. Another notice was transmitted to the claimant by registered post on 06.09.2012 asking him to file his claim statement on or before 17.12.2012.

5. *Vide* notification No.A-11016/3/2009-CLS-II, New Delhi dated 03.04.2013, additional charge of the post of the Presiding Officer, Central Government Industrial Tribunal No.II, New Delhi, was assigned to the undersigned by the appropriate Government and thus the case reached this Tribunal for adjudication.

6. Notice dated 11.05.2013 was sent by registered post commanding the claimant to file his claim statement before the Tribunal on or before 28.06.2013. Neither the postal article was received back nor was it observed by the Tribunal that postal services remained affected from 11.05.2013 till 28.06.2013. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of this notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf.

7. Order of reference projects a question as to whether action of M/s Bharti Airtel Services Ltd. in terminating

services of Shri Laxmi Kant with effect from 01.08.2009 is legal and justified? Onus is there on management No.1 to project that its action of terminating services of Shri Laxmi Kant was legal and justified. Consequently, management No.1 was called upon to file its response to the reference order. In pursuance of the directions so issued, management No.1 filed its response to the reference order.

8. When response, so filed, is perused, it emerged that Shri Laxmi Kant joined services with management No.1 on 01.04.2006 with a glorified designation of an Officer. Shri Laxmi Kant served management No.1 till July 2009. He tendered his resignation, which was accepted by management No.1 on 31.07.2009. His wages amounting to Rs.6022.00 were paid. Besides wages, a sum of Rs.8550.00 was also paid to the claimant towards leave encashment. After getting his dues, claimant left services of management No.1. He joined management No.2 on 01.08.2009. His basic salary, which he is getting from management No.2, is Rs.5103.00, besides house rent allowance of Rs.3035.00, conveyance allowance of Rs.800.00 and special allowance of Rs.4129.00. Thus, he gets a sum of Rs.13068.00 from management No.2, which is higher than the wages which he was getting from management No.1. It is evident that Shri Laxmi Kant resigned the job of management No.1 in search of greener pastures. It is apparent that management No.1 has not taken any steps to terminate services of Shri Laxmi Kant.

9. As unfolded by management No.2, the claimant was appointed by them on 01.08.2009. It is further projected that he is still in employment with them. The management No.2 further presents that its name has been changed to M/s Telesonic Network Ltd. with effect from 25.02.2013. Certificate issued by Registrar of Companies has been placed before the Tribunal in that regard. Consequently, it is evident that the management No.2 is the employer of the claimant since 01.08.2009, which fact establishes the stand taken by management No.1.

10. Nothing has been brought over the record by Shri Laxmi Kant to establish that his services were terminated by management No.1. On the other hand, management No.1 could demonstrate that Shri Laxmi Kant resigned the job for good. He joined services with management No.2, where he was offered better emoluments. Consequently, it is concluded that management No.1 had not taken any action in terminating services of Shri Laxmi Kant. It was the employee who tendered his resignation and marched away. Under these circumstances, neither any illegality nor unjustifiability can be noted on the part of management No.1. Shri Laxmi Kant is not entitled to any relief. An award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated: June 28, 2013

DR. R.K. YADAV, Presiding Officer

नई दिल्ली, 21 अगस्त, 2013

का.आ. 1981.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैसर्स भारती एअर टेल सर्विस लि. एंड अदर्स के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 1, नई दिल्ली के पंचाट (संदर्भ संख्या 77/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.07.2013 को प्राप्त हुआ था।

[सं. एल-40011/47/2011-आईआर(डीयू)]

सोम नाथ, अनुभाग अधिकारी

New Delhi, the 21st August, 2013

S.O. 1981.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 77/2012) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the Industrial dispute between The M/s Bharti Airtel Services Ltd. and others and their workman, which was received by the Central Government on 29.07.2013

[No. L-40011/47/2011-IR (DU)]

SOM NATH, Section Officer

ANNEXURE

**BEFORE DR. R.K. YADAV, PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NO.1, KARKARDOOMA COURTS COMPLEX, DELHI**

ID No 77/2012

Shri Sandeep Kumar,
C/o All India General Mazdoor Trade Union, 170, Bal
Mukund Khand Giri, Kalkaji, New Delhi-110 010

...Workman/Claimant

VERSUS

(1) M/s Bharti Airtel Services Limited 224, Okhla
Industrial Estate, Phase III, New Delhi-110 020

Also at :

Plot No.16, Udyog Vihar,
Phase IV, Gurgaon, Haryana-122 002

...Management No.1

(2) M/s Alcatel-Lucent Network Management Services
Ltd., 15th Floor, Tower C, DLF Cyber Green DLF
City, Phase III, Gurgaon, Haryana-122 002

...Management No.2

AWARD

A Senior Technician, who was given a glorified designation of an Officer, joined services with M/s. Bharti Airtel Services Ltd. (hereinafter referred to as management

No.1) on 01.03.2007. He served management No.1 till 31.07.2009, the date when he tendered his resignation. His resignation was accepted by management No.1 on that very day and wages for the month of July 2009 as well as some amount towards full and final settlement was given to him. Thereafter, he joined services with M/s Alcatel Lucent Network Management Services Pvt. Ltd. in short the management No.2) on 01.08.2009. However, he raised a dispute before the Conciliation Officer claiming that his services were terminated by management No.1 in an illegal manner. Since his claim was contested, conciliation proceedings ended into a failure. On consideration of failure report, submitted by the Conciliation Officer, the appropriate Government referred the dispute to the Central Government Industrial Tribunal No.2, New Delhi for adjudication vide order No.L-40011/47/2011-IR(DU) New Delhi dated 10.02.2012 with following terms :

"Whether the action of the management of M/s Bharti Airtel Services Ltd., in terminating services of Shri Sandeep Kumar S/o Shri Devender Kumar, ex-Senior Technician with effect from 01.08.2009 is legal and justified. What relief the workman is entitled to?"

2. In the reference order, the appropriate Government commanded the parties to the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with the Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions, so given, the Senior Technician, namely, Shri Sandeep Kumar opted not to file his claim statement with the Tribunal.

3. Notice was sent to Shri Sandeep Kumar by registered post on 14.03.2012, calling upon him to file claim statement before the Tribunal on or before 09.04.2012. This notice was sent to him through All India General Mazdoor Trade Union, 170, Bal Mukund Khand Giri, Kalkaji, New Delhi, the address provided by the appropriate Government in order of reference.

4. Since none came forward on behalf of the claimant to file his claim statement, fresh notice was sent to him by registered post on 15.05.2012 calling upon him to file claim statement before the Tribunal On 06.09.2012. Another notice was transmitted to the claimant by registered post on 06.09.2012 asking him to file his claim statement on or before 17.12.2012.

5. Vide notification No.A-11016/3/2009-CLS-II, New Delhi dated 03.04.2013, additional charge of the post of the Presiding Officer, Central Government Industrial Tribunal No.II, New Delhi, was assigned to the undersigned by the appropriate Government and thus the case reached this Tribunal for adjudication.

6. Notice dated 11.05.2013 was sent by registered post commanding the claimant to file his claim statement

before the Tribunal on or before 28.06.2013. Neither the postal article was received back nor was it observed by the Tribunal that postal services remained affected from 11.05.2013 till 28.06.2013. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant. Despite service of this notice, claimant opted to abstain away from the proceedings. No claim statement was filed on his behalf.

7. Order of reference projects a question as to whether action of M/s Bharti Airtel Services Ltd. in terminating services of Shri Sandeep Kumar with effect from 01.08.2009 is legal and justified? Onus is there on management No.1 to project that its action of terminating services of Shri Sandeep Kumar was legal and justified. Consequently, management No.1 was called upon to file its response to the reference order. In pursuance of the directions so issued, management No.1 filed its response to the reference order.

8. When response, so filed, is perused, it emerged that Shri Sandeep Kumar joined services with management No.1 on 01.03.2007 with a glorified designation of an Officer. Shri Sandeep Kumar served management No.1 till July 2009. He tendered his resignation, which was accepted by management No.1 on 31.07.2009. His wages amounting to Rs.6318.00 were paid. Besides wages, a sum of Rs.7289.00 was also paid to the claimant towards leave encashment.

After getting his dues, claimant left services of management No.1. He joined management No. 2 on 01.08.2009. His basic salary, which he is getting from management No.2, is Rs. 6027.00, besides house rent allowance of Rs.4369.00, conveyance allowance of Rs.800.00 and special allowance of Rs.4768.00. Thus, he gets a sum of Rs.15964.00 from management No.2, which is higher than the wages which he was getting from management No.1. It is evident that Shri Sandeep Kumar resigned the job of management No.1 in search of greener pastures. It is apparent that management No.1 has not taken any steps to terminate services of Shri Sandeep Kumar.

9. As unfolded by management No.2, the claimant was appointed by them on 01.08.2009. It is further projected that he is still in employment with them. The management No.2 further presents that its name has been changed to M/s Telesonic Network Ltd. with effect from 25.02.2013. Certificate issued by Registrar of Companies has been placed before the Tribunal in that regard. Consequently, it is evident that the management No.2 is the employer of the claimant since 01.08.2009, which fact establishes, the stand taken by management No.1.

10. Nothing has been brought over the record by Shri Sandeep Kumar to establish that his services were terminated by management No.1. On the other hand, management No.1 could demonstrate that Shri Sandeep Kumar resigned the job for good. He joined services with

management No.2, where he was offered better emoluments. Consequently, it is concluded that management No.1 had not taken any action in terminating services of Shri Sandeep Kumar. It was the employee who tendered his resignation and marched away. Under these circumstances, neither any illegality nor unjustifiability can be noted on the part of management No.1. Shri Sandeep Kumar is not entitled to any relief. An award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated: June 28, 2013

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 21 अगस्त, 2013

कां० 1982.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कमिश्नर (एम०सी०डी०) चाँदनी चौक के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं.-1, नई दिल्ली के पंचाट (संदर्भ संख्या 86/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 29.07.2013 को प्राप्त हुआ था।

[सं० एल-42012/228/2010-आई०आर०(डी० यू०)]

सोम नाथ, अनुभाग अधिकारी

New Delhi, the 21st August, 2013

S.O. 1982.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award (Ref. No. 86/2011) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the Industrial dispute between The Commissioner (MCD) Chandi Chowk and their workman, which was received by the Central Government on 29.07.2013

[No. L-42012/228/2010-IR (DU)]

SOM NATH, Section Officer

ANNEXURE

BEFORE DR. R.K. YADAV PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL- CUM-LABOUR COURT NO.1, KARKARDOMA COURT COMPLEX, DELHI

I.D.No.86/2011

Smt. Krishna
Nagar Nigam Karmchari Sangh,
Delhi Pradesh, P-2/624,
Sultanpuri, Delhi.

....Workman

VERSUS

The Commissioner,
Municipal Corporation of Delhi (MCD)
Town Hall, Chandni Chowk,
Delhi-110006.

....Management

AWARD

A part time safai karamchari joined Municipal Corporation Primary Boys School, Katevda, on 25.04.1985. She worked in the said school till June 1988. Thereafter, she was engaged in Municipal Corporation Girls School, Daryapur Kalan on 18.07.1988, where she worked upto 22.05.1993. Her services were also taken at Municipal Corporation Boys Primary School, Azadpur, as well as Municipal Corporation Primary School, Shalimar Bagh, Delhi. In pursuance of policy framed by Municipal Corporation of Delhi (in short the Corporation), she was offered job as daily wager and subsequently her services were regularized with effect from 09.12.2004. She raised a demand for regularization of service with effect from 25.04.1985, which demand was not conceded to by the Corporation. Aggrieved by that Act, she approached the Nagar Nigam Karamchari Sangh (herein after referred to as the union) for redressal of her grievance. The union served legal notice on the Corporation and thereafter raised a demand before the Conciliation Officer. Since the Corporation contested the claim, conciliation proceedings ended into a failure. On consideration of failure report, submitted by the conciliation Officer, the appropriate government referred the dispute to this Tribunal for adjudication, *vide* order No.L-42012/228/2010-1R(DU), New Delhi dated 04.04.2004, with following terms:

"Whether action of the management of Municipal Corporation of Delhi in denying the demand of Nagar Nigam Karakmchari Sangh, for regularization of services of Smt. Krishna, Safai Karmchari, with effect from 25.04.1985 is legal and justified? What relief is the workman entitled to?"

2. Claim statement was filed by the safai karamchari, namely, Smt. Krishna pleading therein that she was initially appointed as a part time safai karamchari at Municipal Corporation Primary Boys School, Katevda, Delhi, on 25.04.1985 (in short the School). She served the School with sincerity and never gave any chance of complaint to her superiors. Her services were regularized by the Corporation with effect from 09.12.2004. She is entitled for regularization of service from the date of her initially joining the School. When she made a request for regularization of her services with effect from 25.04.1985, she was given an assurance that her demand would be considered. She was rendering full time service with the School and as such is entitled for regularization in service from 25.04.1985 the date of initial joining of service. When her demand was not conceded to, she served legal notice on the Corporation through the union. Her demand was properly espoused by the union. She claims that the Corporation may be directed to regularize her services with effect from 25.04.1985 with all consequential benefits.

3. Claim was demurred by the Corporation pleading that being a part time sweeper, Smt. Krishna was not a

workman. No part time employee is entitled for regularization of his service with the Corporation. However, Corporation formed a policy for regularization of its part time sweepers. In consonance with that policy, a part time sweeper is first given job as daily wager and thereafter his services are regularized. Services of the claimant were regularized *vide* letter dated 09.12.2004. Since Smt. Krishna stood regularized in the service of the Corporation, hence no dispute remains to be adjudicated, pleads the Corporation.

4. The Corporation pleads that for went of espousal dispute has not acquired character of an industrial dispute. No demand was served on the Corporation and as such, the dispute cannot be termed as an Industrial dispute. Claimant is not entitled to get regularization in service of the Corporation with effect from 25.04.1985, the date when she was engaged as part time sweeper. Her claim is not maintainable. It is liable to be dismissed being devoid of merits, pleads the Corporation.

5. On pleadings of the parties, following issues were settled:

- (1) Whether an industrial dispute is raised and referred for adjudication?
- (2) As in terms of reference.
- (3) Relief.

6. Claimant abandoned the proceedings with effect from 31.01.2012. Various adjournments were given but the claimant opted not to adduce any evidence in the matter. Since for the last more than 1½ years, claimant had not put in her appearance, hence matter was proceeded under Rule 22 of Industrial Disputes (Central) Rules, 1957 (in short the Rules). Evidence of the claimant was closed. As none came forward on behalf of the Corporation, hence evidence of the Corporation was also closed.

7. Neither the claimant nor authorized representatives of the Corporation came forward to advance arguments. I have perused the records carefully. My findings on issues involved in the controversy are as follows:

Issue No.1

8. Claimant projects that initially she was appointed as part time sweeper on 25.04.1995 in the School. She served the Corporation with sincerity and honesty. Her services were regularized on 09.12.2004. Corporation projects in its written statement that being a part-time employee the claimant was not a workman. Consequently, it is expedient to record findings as to whether a part-time employee is a workman within the meaning of section 2(s) of the Industrial Disputes Act, 1947 (in short the Act). For sake of convenience, definition of term 'workman' is reproduced thus:

"2(s) Workman means any person (including an apprentice) employed in any industry to do any manual,

unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person :—

- (i) who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act 1950(46 of 1950) or the Navy Act, 1957 (62 of 1957), or
- (ii) who is employed in the police service or as an officer or other employee of a prison, or
- (iii) who is, employed mainly in a managerial or administrative capacity, or
- (iv) who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature".

9. The first part of the definition gives statutory meaning of the term workman. This part of the definition determines a workman by reference to a person (including an apprentice) employed in an "industry" to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward. This part determines what a "workman" means. The second part is designed to include something more in what the term primarily denotes. By this part of the definition, person (i) who have been dismissed, discharged or retrenched in connection with an industrial dispute, or (ii) whose dismissal, is discharge or retrenchment has lead to an industrial dispute, for the purposes of any proceedings under the Act in relation to such industrial dispute, have been included in the definition of "workman". This part gives extended connotation to the expression "workman". The third part specifically excludes the categories of persons specified in clauses (i) to (iv) of this sub-section. The third part connotes that even if a person satisfies the requirements of any of the first two parts but if he falls in any of the four categories in the third part, he shall be excluded from the definition of 'workman'. Not only the persons who are actually employed in an industry but also those who have been discharged, dismissed or retrenched in connection with or as a consequence of an industrial dispute, and whose dismissal, discharge or retrenchment has lead to that dispute, would fall within the ambit of the definition. In other words, the second category of persons included in the definition would fall in the ambit of the definition, only for the purpose of any proceedings under the Act in relation to an industrial dispute and for no other purposes. Therefore, date of

reference is relevant and in case a person falls within the definition of workman on that day, the Tribunal would be vested with jurisdiction to entertain it and the jurisdiction would not cease merely because subsequently the workman ceases to be a workman.

10. For an employee in an industry to be a workman under this definition, it is manifest that he must be employed to do skilled or unskilled manual work, supervisory work, technical work or clerical work. If the work done by an employee is not of such a nature, he would not be a workman. The specification of the four types of work obviously is intended to law down that an employee is to become a workman only if he is employed to do work of one of those types, while there may be employees who, not doing any such work, would be out of the scope of the word 'workman', without having resort to the exceptions. It cannot be held that every employee of an industry was to be a workman except those mentioned in the four exceptions as in that case these four classifications need not have been mentioned in the definition and a workman could have been defined as a person employed in an industry except in cases where he was covered by one of the exceptions.

11. In cases where an employee is employed to do purely skilled or unskilled manual work, or supervisory work or technical work or clerical work there would be no difficulty in holding him to be a workman under the appropriate classification. Frequently, however, an employee is required to do more than one kind of work. In such cases, it would be necessary to determine under which classification he will fall for the purpose of finding out whether he does not go out of the definition of 'workman' under the exceptions. The principle is now well settled that for this purpose, a workman must be held to be employed to do that work which is the main work he is required to do even though he may incidentally doing other type of work.

12. As projected above, definition of workman does not make any difference between part time or full time employees. The Apex Court in *Birdichand Sharma* [1961 (3) SCR 161] and *Silver Jubilee Tailoring House* [1974 (3) SCC 498] was confronted with a proposition as to whether part time employee answers definition of workman. It was conclusively ruled therein that there was absolutely no distinction between full time and part time employee and that an employee who was working on part time basis would not loose his status of workman, if he answers ingredients of section 2(s) of the Act.

13. In *General Manager Telecom, Nagpur* (2001 Lab.I.C. 2127), the Bombay High court also reaffirmed the same proposition. It was ruled therein that definition of workmen as given in the Act does not make any distinction between full time employee and part time employee. It does not lay down that only a person employed for full time will be said to be a workman and that the one who is employed for part time

should not be taken as workman. What is required is that the person should be employed for hire to discharge work manual, skilled or unskilled etc. in any industry. If this test is fulfilled, part time employee can also be said to be a workman.

14. As projected by the claimant, she was engaged to work as a sweeper, on part time basis. It is a matter of common knowledge that sweeping job is unskilled manual work. She was doing that job for hire or reward. Thus it is crystal clear that the work performed by the claimant clothe her with the status of a workman. The fact that she was a part time employee would not make any difference. It is, therefore, announced that the objection raised by the Corporation is of no consequence.

15. The Corporation makes another attack pleading that the dispute has not acquired status of an industrial dispute for want of espousal by the union. In her claim statement, claimant presents that her demand was properly espoused by the union. However, claimant has not come forward to establish that fact by way of adducing cogent evidence. Question for consideration would be as to whether the dispute can be termed as an industrial dispute. For an answer to this proposition, definition of the term 'industrial dispute' is to be construed. Section 2(k) of the Act defines the term 'industrial dispute', which definition is extracted thus:

"2 (k) "Industrial dispute" means any dispute or difference between employers and employers, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;"

16. The definition of "industrial dispute" referred above, can be divided into four parts, *viz.* (i) factum of dispute, (2) parties to the dispute, *viz.* (a) employers and employers, (b) employer and workmen, or (c) workmen and workmen, (3) subject matter of the dispute, which should be connected with —(i) employment or non employment, or (ii) terms of employment, or (iii) condition of labour of any person, and (4) it should relate to an "industry".

17. The definition of "industrial dispute" is worded in very wide terms and unless they are narrowed by the meaning given to word "workman" it would seem to include all "employers", all "employments" and all "workmen", whatever the nature or scope of the employment may be. Therefore, except in the case where there can be a dispute between the employers and employers and workmen and workmen, one of the parties to an industrial dispute must be an employee or a class of employees. The first point, therefore, to be noted, perhaps self evident, is that the phrase "employer and workmen", the plural may include singular on either side or any permutation of singular or plural, the masculine including the feminine. In order,

therefore, to determine as to whether a controversy or difference or a dispute is an "an industrial dispute" or not, it must first be determined whether the workman concerned or workmen sponsoring his cause satisfy the conditions of clause(s) of section 2 of the Act. Here in the case, the objection raised by the Corporation to the effect that the claimant is not a workman, within the meaning of clause(s) of section 2 of the Act, has been discarded in preceding sections.

18. The Apex Court put gloss on the definition of "industrial dispute" in *Dimakuchi Tea Estate* [1958 (1) LLJ 500] and ruled that the expression "any person" in clause (k) of section 2 of the Act must be read subject to such limitation and qualification as arise from the context, the two crucial limitations are (i) the dispute must be a real dispute between the parties to the dispute (as indicated in the first two parts of the definition clause) so as to be capable of settlement or adjudication by one party to the dispute giving necessary relief to other, and (2) the person regarding whom the dispute is raised must be one for whose employment, non employment, terms of employment or conditions of labour, as case may be, the parties dispute for a direct or substantial interest. Where workman raised a dispute as against their employment, the person regarding whose employment, non employer, terms of employment or conditions of labour, the dispute is raised need not be strictly speaking "workman" within the meaning of the Act, but must be one in whose employment, non employment terms of employment, or conditions of labour the workmen as a class have a direct or substantial interest. The observations made by the Apex Court are to be extracted thus:

"We also agree with the expression "any person" is not co extensive with any workman, particular or otherwise, equal with other, that the crucial test is one of community of interest and the person regarding whom the dispute is raised must be one in whose employment, non employment, terms of employment, conditions of labour (as the case may be) the parties to the dispute have a direct or substantial interest. Whether such direct or substantial interest has been established in a particular case will depend on its facts and circumstances."

19. In *Kyas Construction Company (Pvt) Ltd.* [1958 (2) LLJ 660], the Apex Court ruled that an industrial dispute need not be a dispute between the employer and his workman and that the definition of the expression "industrial dispute" is wide enough to cater a dispute raised by the employer's workman with regard to non employment of others, who may not be employed as workman at the relevant time. The Apex Court in *Bombay Union of Journalist* [1961 (II) LLJ 436] has observed that in each case in ascertaining whether an individual dispute has

acquired the character of an industrial dispute, the test is whether at the date of reference, the dispute was taken up as submitted by the union of the workmen of the employer against whom, the dispute is raised by an individual workman or by an appreciable number of workmen. In order, therefore, to convert an individual dispute into an industrial dispute, it has to be established that it has been taken up by the union of employees of the establishment or by an appreciable number of the employees of the establishment. As far as union of the workmen of establishment itself is concerned, the problem of espousal by them generally presents little difficulty, since such workmen who are members of such unions generally have a continuity of interest with an individual employee who is one of their fellow workman. But difficulty arise when the cause of a workman, in a particular establishment is sponsored by a union which is not of the workmen of that establishment but is one of which membership is open to workmen of their establishment as well as in that industry. In such a case a union which has only microscopic number of the workmen as its member, cannot sponsor any dispute arising between the workmen and the management. A representative character of the union has to be gathered from the strength of the actual number of co workers sponsoring the dispute. The mere fact that a substantial number of workmen of the establishment in which the concerned workman was employee were also members of the union would not constitute sponsorship. It must be shown that they were connected together and arrived at an understanding by a resolution or by other means and collectively submitted the dispute.

20. The expression "industrial disputes" has been construed by the Apex on include individual disputes, because of the scheme of the Act. In *Raghu opal Patvardhan* [1957(1) LLJ 27] the Apex Court ruled as to what dispute can be called as an industrial dispute. It was laid thereon that (1) a dispute between the employer and a single workman cannot be an industrial dispute, (2) it cannot per se be an industrial dispute but may become if it is taken up by a trade union or a number of workmen. In *Dharampal Prem Chand* [1965 (1) LLJ 668] it was commanded by the Apex Court that a dispute raised by a single workman cannot become an industrial dispute unless it is supported either by his union or in the absence of a union by substantial number of workmen. Same law was laid in the case of *Indian Express Newspaper (Pvt.) Limited* [1970 (1) LLJ 132]. However in *Western India Match Company* [1970 (II) LLJ 256], the Apex Court referred the precedent in *Dimakuchi Tea Estate's case* [1958 (1) LLJ 500] and ruled that a dispute relating to "any person becomes a dispute where the person in respect of whom it is raised is one in whose employment, non employment, terms of employment or conditions of labour, the parties, dispute for a direct or substantial interest".

21. What a substantial or considerable number of workmen would be in a given case, depend on particular facts of the case. The fact that an "industrial dispute", is supported by other workmen will have to be established either in the form of a resolution of the union of which workman may be member or of the workmen themselves who support the dispute or in any other manner. From the mere fact that a general union, at whose instance an "industrial dispute" concerning an individual workman is referred for adjudication, has on its roll a few of the workmen of the establishment as its members, it cannot be inferred that the individual dispute has been converted into an "industrial dispute". The Tribunal has therefore, to consider the question as to how many of the fellow workman actually espoused the cause of the concerned workman by participating in the particular resolution of the Union. In the absence of a such a determination by the Tribunal, it cannot be said that the individual dispute acquired the character of an industrial dispute and the Tribunal will not acquire jurisdiction to adjudicate upon the dispute. Nevertheless, in order to make a dispute an industrial dispute, it is not necessary that there should always be a resolution of substantial or appreciable number of workmen. What is necessary is that there should be some express or collective will of a substantial or an appreciable member of the workmen treating the cause of the individual workman as their own cause. Law to this effect was laid in *P.Somasundaram* [1970(1) LLJ 558].

22. It is not necessary that the sponsoring union is a registered trade union or a recognized trade union. Once it is shown that a body of substantial number of workmen either acting through a union or otherwise had sponsored the workman's cause, it is sufficient to convert it into an industrial dispute. In *Pardeep Lamp Works* [1970 (1) LLJ 507] complaints relating to dispute of ten workmen were filed before the Conciliation Officer by the individual workmen themselves. But their case was subsequently taken up by a new union formed by a large number of co workmen, if not a majority of them. Since this union was not registered or recognized, the workmen elected five representatives to prosecute the cases of ten dismissed workmen. Thus cases of the dismissed workmen were espoused by the new union, yet unregistered and unrecognized. The Apex Court held that the fact that these disputes were not taken up by a registered or recognized union does not mean that they were not "industrial dispute".

23. It is not expedient that same union should remain incharge of that dispute till its adjudication. The dispute may be espoused by the workmen of an establishment, through a particular union for making such a dispute an "industrial dispute", while the workman may be represented before the Tribunal for the purpose of section 36 of the Act by a member of executive or office bearer of altogether another union. The crux of the matter is that the dispute should be a dispute between the employer and his workmen.

It is not necessary that the dispute must be espoused or conducted only by a registered trade union. Even if a trade union ceases to be registered trade union during the continuance of the adjudication proceedings that would not affect the maintainability of the order of reference. Law to this effect was laid by the High Court of Orissa in Gammon India Limited [1974 (II) LLJ 34]. For ascertaining as to whether an individual dispute has acquired character of an individual dispute, the test is whether on the date of the reference the dispute was taken up as supported by the union of the workmen of the employer against whom the dispute is raised by the individual workman or by an appreciable number of the workman. In other words, the validity of the reference of an industrial dispute must be judged on the facts as they stood on the date of the reference and not necessarily on the date when the cause occurs. Reference can be made to a precedent in Western India Match Co.Ltd. [1970 (II) LLJ 256].

24. Sub-section (2) of section 10 of the Act projects that when industrial dispute is applied in the prescribed manner to the appropriate Government, if satisfied that the person applying represents majority of each party, it shall make reference accordingly. Rule 3 of the rules projects as to in what form the application under sub section (2) of section 10 of the Act shall be made. Rule 4 provides as to who shall sign the said application and its accompanying statements. For sake of convenience provisions of the aforesaid rules are reproduced thus:

"3. Application

An application under sub-section (2) of section 10 for the reference of an industrial dispute to a Board, Court, Labour Court, Tribunal or National Tribunal shall be made in Form A and shall be delivered personally or forwarded by registered post to the Secretary to the Government of India in the Ministry of Labour and Employment (in triplicate)] the Chief Labour Commissioner (Central), New Delhi, and the Regional Labour Commissioner (Central), and the Assistant Labour Commissioner (Central) concerned. The application shall be accompanied by a statement setting forth—

- (a) the parties to the dispute;
- (b) the specific matters in dispute;
- (c) the total number of workmen employed in the undertaking affected;
- (d) an estimate of the number of workmen affected or likely to be affected by the dispute; and
- (e) the efforts made by the parties themselves to adjust the dispute.

4. Attestation of application

The application and the statement accompanying it shall be signed:

- (a) in the case of an employer by the employer himself, or when the employer is an incorporated company or other body corporate, by the agent, manager or other principal officer of the Corporation;
- (b) in the case of workmen, either by the President and Secretary of a trade union of the workmen, or by five representatives of the workmen duly authorised in this behalf at a meeting of the workmen held for the purpose;
- (c) in the case of an individual workman, by the workman himself or by any officer of the trade union of which he is a member or by another workman in the same establishment duly authorised by him in this behalf:

Provided that such workman is not a member of a different trade union."

25. Bare reading of the aforesaid rules makes it apparent that the application in case of workmen shall be signed either by the President and Secretary of the trade union or by five representatives of the workmen duly authorised in that behalf at a meeting of the workmen held for the purpose. In case of dispute relating to dismissal, discharge, retrenchment or otherwise termination of the workman by his employer, the application may be signed by the individual workmen himself or an officer of the trade union or by another workman in the same establishment duly authorised by him in this behalf. As facts project, it is not a case where a dispute relating to dismissal, discharge, retrenchment or otherwise termination of the service of the claimant has been raised. Therefore, application in raising the dispute was to be signed either by the President and Secretary of the union or by five representatives of the workmen duly authorised in that behalf at a meeting of the workmen held for the purpose.

26. Now factual matrix is to be noted. As detailed above, the claimant pleads that her demand was espoused by the union, yet no evidence has been brought over the record to establish that fact. When record is perused, it came to light that no resolution or expression of collective will of the union has been brought over the record. Copy of legal demand notice dated 15.07.2009 has been placed over the record. The said demand notice nowhere bring it over the record that the members of the union took up the cause of Smt. Krishna as their own. This document nowhere states that the union expressed its collective will to take up cause of the claimant for redressal of her grievance. This legal notice does not specify standards of espousal of the cause of the claimant so that it may reach pedestal of an

industrial dispute. Except this legal notice, there is nothing over the record to project that the cause of the claimant was taken up by the members of the union as their own. Thus, it is evident that there is complete lack of evidence to the effect that cause of the claimant was espoused by the union and it acquired status of an industrial dispute. Resultantly, it is concluded that the claimant miserably failed to establish that an industrial dispute was raised before the authorities under the Act. It has also not been established that the dispute, which was referred by the appropriate Government for adjudication, reached the pedestal of an industrial dispute. Resultantly, issue is answered in favour of the Corporation and against the claimant.

Issue No.2 & Relief

27. In view of the findings referred above, it is announced that dispute raised by Smt. Krishna remained an individual dispute and the appropriate Government was not competent to refer it for adjudication. This Tribunal cannot invoke its jurisdiction to adjudicate the dispute under provisions of the Act. Consequently, the Tribunal refrains its hands from adjudication of the dispute. Claimant is not entitled to any relief in view of the reasons referred above. An award is, accordingly, passed. It be sent to the appropriate Government for publication.

Dated : 26.6.2013

Dr. R. K. YADAV, Presiding Officer

नई दिल्ली, 5 सितम्बर, 2013

का०आ० 1983.—केन्द्र सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथासंशोधित 1987) के नियम 10 के उप-नियम (4) के अनुसरण में, श्रम और रोजगार मंत्रालय के प्रशासकीय नियंत्रणाधीन निम्नलिखित कार्यालयों को, जिनके न्यूनतम 80 प्रतिशत कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है:

01. क्षेत्रीय कार्यालय, कर्मचारी राज्य बीमा निगम, रांची
02. उप क्षेत्रीय कार्यालय, कर्मचारी राज्य बीमा निगम, सूरत
03. क०रा०बी० आदर्श अस्पताल, रामदरबार (चंडीगढ़)
04. उप क्षेत्रीय कार्यालय, कर्मचारी राज्य बीमा निगम, वाराणसी
05. प्रभागीय कार्यालय, कर्मचारी राज्य बीमा निगम, नासिक

06. उप क्षेत्रीय कार्यालय, कर्मचारी राज्य बीमा निगम, औरंगाबाद
07. उप क्षेत्रीय कार्यालय, कर्मचारी राज्य बीमा निगम, एरणाकुलम
08. राष्ट्रीय प्रशिक्षण अकादमी, कर्मचारी राज्य बीमा निगम, नई दिल्ली
09. उप क्षेत्रीय कार्यालय, कर्मचारी राज्य बीमा निगम, लुधियाना।

[सं० ई-11017/1/2006-रा०भा०नी०]

अनिल कुमार खाची, संयुक्त सचिव

New Delhi, the 5th September, 2013

S.O. 1983.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Language (Use for official purposes of the Union) Rules, 1976 (as amended 1987) the Central Government hereby notifies following offices under the administrative control of the Ministry of Labour & Employment, at least 80% Staff whereof have acquired working knowledge of Hindi:—

01. Regional Office, Employees' State Insurance Corporation, Ranchi
02. Sub Regional Office, Employees' State Insurance Corporation, Surat
03. Employees' State Insurance Model Hospital, Ramadarbar (Chandigarh)
04. Sub Regional Office, Employees' State Insurance Corporation, Varanasi
05. Divisional Office, Employees' State Insurance Corporation, Nasik
06. Sub Regional Office, Employees' State Insurance Corporation, Aurangabad
07. Sub Regional Office, Employees' State Insurance Corporation, Ernakulam
08. National Training Academy, Employees' State Insurance Corporation, New Delhi
09. Sub Regional Office, Employees' State Insurance Corporation, Ludhiyana.

[No. E-11017/1/2006-RBN]

A.K. KHACHI, Jt. Secy.